

2018-0-____

AN ORDINANCE AMENDING THE TOBACCO REGULATIONS BY INCLUDING VAPING AND E-CIGARETTE PARAPHERNALIA AND PROHIBITING POSSESSION OF TOBACCO AND VAPING PRODUCTS ON SCHOOL GROUNDS

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

SECTION I: That Chapter 118 entitled "Tobacco Regulations", of Title Xi of the Wauconda Village Code be and is hereby amended to provide as follows, where strikethrough (~~strikethrough~~) indicates deletion of text and double underline (insert) indicates insertion of text:

§ 118.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SMOKING HERBS. All substances of plant origin and their derivatives, including, but not limited to, broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimsonweed and other members of the Datura genus, passionflower and wild lettuce, which are processed or sold primarily for use as smoking materials.

TOBACCO ACCESSORIES. 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.

TOBACCO PRODUCTS. Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

VAPOR CIGARETTES or alternative vapor transmission modalities are devices, including all associated paraphernalia, which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user including but not limited to e-cigarettes, e-cigs, vape, wax vape pens or other similar modalities

§ 118.02 LICENSE REQUIRED; FEE.

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 accessories, tobacco products, ~~or~~ smoking herbs or vapor cigarettes or vapor cigarette cartridges, within the village without having first obtained a tobacco dealer's license therefor pursuant to this chapter. Commencing August 1, 2001, and thereafter, the annual fee for such license shall be \$200. The license shall be

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in addition to any other license (including vending machine licenses) required by this code.

§ 118.03 PROHIBITED SALES, POSSESSION, DELIVERY, SIGNS.

(A) *Sale to minors.* It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver any tobacco accessories, tobacco products, or smoking herbs, or vapor cigarettes or vapor cigarette cartridges, to any person under the age of 18 years.

(B) *Possession by minors prohibited and possession by persons 18 years old on school grounds prohibited.* It shall be unlawful for any person under the age of 18 years to possess any tobacco accessories, tobacco products, ~~or~~ smoking herbs or vapor cigarettes or vapor cigarette cartridges; provided that the possession by a person under the age of 18 years under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited. Persons of any age shall not possess the items described in this paragraph (B) on any school grounds within the jurisdictional limits of the Village.

(C) *Use of identification cards.* No person in the furtherance or facilitation of obtaining tobacco accessories, tobacco products, or smoking herbs shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D) *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 accessories, tobacco products~~or~~ smoking herbs or vapor cigarettes or vapor cigarette cartridges, 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 accessories, tobacco products, ~~or~~ smoking herbs or vapor cigarettes or vapor cigarette cartridges, free of charge to any person on any right of way, park, playground or other property owned by the village, school district, park district, or any public library.

(E) *Signs.*

(1) Any person operating a place of business where tobacco accessories, tobacco products, or smoking herbs are sold or offered for sale shall post in a conspicuous place at or near every tobacco display and on or upon every vending machine which offers tobacco accessories, tobacco products, or smoking herbs for sale a sign upon which there shall be imprinted the following statement:

SALE OF TOBACCO ACCESSORIES, ~~AND~~ SMOKING HERBS AND VAPING PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE

OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW.

(2) The sign shall be printed on a white card with red capitalized letters at least 1/2 inch in height.

SECTION II: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION III: All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

SECTION IV: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION V: That any person, firm or entity violating the terms and conditions of this Ordinance shall be subject to a fine not to exceed \$750.00 with each and every day that the violation exists constituting a distinct and separate offense under the terms of this Ordinance. In addition, the Corporate Authority may take whatever action it deems appropriate to enforce the terms of this Ordinance, including an action for injunction. All attorney's fees and costs incurred by the Municipality in enforcing the terms of this Ordinance shall be paid by the violator.

SECTION VI: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

Passed this _____ day of _____, 2018.

	Ayes:	Nays:	Absent/Abstain:
Linda Starkey	_____	_____	_____
Ken Arnsward	_____	_____	_____
Chuck Black	_____	_____	_____

Tim Howe
Richard G. Morino
Adam Schlick

APPROVED:

By: _____ Date: _____
LINCOLN F. KNIGHT, MAYOR

ATTEST:

By: _____
CHERYL FALK-NOVAK, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on _____, 2018.

I hereby certify that the above ordinance was published in pamphlet form on _____, 2018 as provided by law.

CHERYL FALK-NOVAK, Village Clerk

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE VILLAGE OF WAUCONDA TO PROVIDE FOR CLEAN INDOOR AIR IN CERTAIN PUBLIC PLACES BY REGULATING SMOKING AND VAPING IN CERTAIN PUBLIC PLACES

WHEREAS, the National Cancer Institute determined that there are 63 carcinogens among the 4,000 chemicals contained in secondhand smoke and that secondhand smoke is responsible for the premature deaths of as many as 65,000 Americans annually and;

WHEREAS, the Illinois General Assembly has concurred with the findings of the National Cancer Institute that secondhand tobacco smoke causes heart disease, stroke, cancer, sudden infant death syndrome, low-birth-weight in infants, asthma and exacerbation of asthma, bronchitis and pneumonia in both children and adults and;

WHEREAS, the United States Surgeon General's 2006 report has determined that there is no risk-free level of exposure to secondhand smoke and that simple separation of smokers from non-smokers within the same air space may reduce, but does not eliminate, the exposure on nonsmokers to secondhand smoke and the Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation; and

WHEREAS, air cleaners, which are capable only of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke and the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) acknowledges that technology does not exist which can remove chemicals that cause cancer from the air. Therefore, separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate the health risks associated with exposure to secondhand smoke; and

WHEREAS, the Governor and the General Assembly have enacted "Smoke Free Illinois Act," as amended, prohibiting and regulating smoking in and about Public Places and Places of Employment and authorizing municipalities to regulate smoking in Public Places and Places of Employment to the extent that the local regulations are no less restrictive than the provisions of the Act; and

WHEREAS, "Vape" or Vaping" are "Vapor cigarettes" or alternative vapor transmission modalities which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user causing a second hand smoke effect similar, if not the same as second-hand tobacco smoke, in adversely affecting the person or persons within a vicinity to inhale the vapor or steam exhaled by the user of a vaping device; and

WHEREAS, for the purposes of this ordinance the terms "smoking" and "vaping" are intended to be synonymous; and

WHEREAS, the Corporate Authorities of the Village of Wauconda, in the exercise of its lawful powers to protect the public health and welfare of the residents of, and visitors to, the Village of Wauconda and to protect the rights of the non-smoking public to be free from the risks associated with breathing secondhand tobacco smoke and vaping vapors or steam while in an enclosed Public

Place, find and declare that smoking and vaping should be prohibited in Public Places, at Places of Employment, and at the entrances thereto.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Wauconda, Lake County, Illinois, as follows:

SECTION I: That the foregoing recitals are incorporated herein as the findings of the Board of Trustees of the Village of Wauconda, Illinois (the "Village").

SECTION II: Title XIII of the Wauconda, Illinois, Code of Ordinances is hereby amended to add a new Chapter 138 entitled "Smoke Free Air Regulations" to provide in its sections and subsections as follows:

Chapter 138. SMOKE FREE AIR REGULATIONS

138.01 DEFINITIONS.

Whenever used in this Chapter, the following words and phrases shall have the following meanings:

"Alternative nicotine products" means a product or device not consisting of or containing leaf tobacco that provides for the ingestion into the body of nicotine by any means, but excluding any product approved by the United States Food and Drug Administration as a tobacco cessation product, tobacco dependency product, or for other medical purpose, and being marketed solely for that approved purpose.

"Bar" or "Tavern" means an establishment that is devoted primarily to the serving of alcoholic beverages for consumption by members of the public, or members or guests of a Private Club on the premises and that derives no more than 20% of its gross revenue from the sale of food consumed on the premises. "Bar" includes, but is not limited to, taverns, nightclubs, 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.

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

"Employer" means a person, business, partnership, association, or corporation, including a municipal corporation, trust, or non-profit entity, which employs the services of one or more individual persons.

"Enclosed Area" means all space in any structure or building between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

"Enclosed or Partially Enclosed Sports Arena" means any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley, or other

similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational, or other events.

"Gaming Equipment or Supplies" means gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

"Gaming Facility" means an establishment utilized primarily or partially for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

"Healthcare Facility" means any office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. "Healthcare facility" includes all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within healthcare facilities.

"Open Air Dining Area" means a seating area open to the air that is accessory to a Bar or Tavern, Restaurant, Hotel, 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.

"Outdoor Patio" means an area that is either: enclosed by a roof or other overhead covering and walls or side coverings on not more than two sides; or has no roof or other overhead coverings regardless of the number of walls, fence or other side coverings. This includes, but is not limited to, beer gardens or other outdoor seating.

"Outdoor Patio Patron" means an individual who is occupying an outdoor patio.

"Permeable" means permitting smoke or vapors to pass through.

"Place of Employment" means any enclosed area under the control of a public or private employer that employees, invitees or guests of the Employer utilize during the course of employment or during the course of the visit, including without limitation common work areas, private offices, employee lounges and break rooms, restrooms, conference and meeting rooms, classrooms, cafeterias, elevators, stairwells, hallways, medical facilities private clubs. "Place of Employment" includes entrances and exits thereto including a minimum distance of fifteen feet (15') from; (i) each entrance and exit; (ii) windows that open; (iii) ventilation intakes which serve an enclosed area where smoking is prohibited. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a "Place of Employment."

"Private Club" means a not-for-profit association that (1) has been in active and continuous existence for at least 3 years prior to January 1, 2008, whether incorporated or not, (2) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (3) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain, and (4) only sells alcoholic beverages incidental to its

operation. For purposes of this definition, "Private Club" means an organization that is managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

"Private Residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin, or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home, or assisted living facility shall not be considered a Private Residence.

"Proprietor" means an owner, operator, manager, occupant, lessee, or other individual in control of a public place or a place of employment.

"Public Place" means that portion of any building or vehicle open to and used by the general public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the Village of Wauconda, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distance, as set forth in Section 138.02 of this Chapter, of 15 feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A "Public Place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A "public place" includes, but is not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, all government owned vehicles and facilities, including buildings and vehicles owned, leased, or operated by the Village of Wauconda, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75% of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast, or other similar public accommodation that are rented to guests, but excludes private residences.

"Restaurant" means (i) an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, that gives or offers for sale food to the public, guests, or employees, and (ii) a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. "Restaurant" includes a bar area within the restaurant.

"Retail Tobacco Store" means a retail establishment that derives more than 80% of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Retail Tobacco Store" does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food, or restaurant license.

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

"Smoke" or **"Smoking"** means the carrying, smoking, burning, inhaling, or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs, or any other lighted smoking equipment and includes the use of vaping devices. "Smoke" or "smoking" does not include smoking that is associated with a native recognized religious ceremony, ritual, or activity by Native Americans that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a.

"Vape" or Vaping" means using a vapor cigarette or alternative vapor transmission modality to vape alternative nicotine products.

"Vapor cigarettes" or alternative vapor transmission modalities are devices which contain a cartridge or open space filled with nicotine and/or other chemicals which are turned into vapor or steam that is inhaled and exhaled by the user including but not limited to e-cigarettes, e-cigs, vape, wax vape pens or other similar modalities

138.02 SMOKING IN PUBLIC PLACES, PLACES OF EMPLOYMENT, AND GOVERNMENTAL VEHICLES PROHIBITED.

(A) General Prohibition. It shall be unlawful to smoke or vape in any enclosed area of any public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the Village of Wauconda and, if operated within the jurisdictional boundaries of the Village, owned or operated by the State of Illinois or any political subdivision of the State. Smoking is prohibited in indoor public places and workplaces unless specifically exempted by Section 138.06 of this Chapter.

(B) It shall be unlawful for the owner, occupant or lessee in control of a public place to permit smoking or vaping in any enclosed area in a public place.

(C) Entrances, exits, windows, and ventilation intakes. Smoking is prohibited within a minimum distance of 15 feet (15') from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited under this Act so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

138.03 POSTING OF SIGNS; REMOVAL OF ASHTRAYS.

(A) "No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Chapter by the owner, operator, manager, or other person in control of that place.

(B) Each public place and place of employment where smoking and vaping is prohibited by this Chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.

(C) All ashtrays shall be removed from any area where smoking is prohibited by this Chapter by the owner, operator, manager, or other person having control of the area.

138.04 SMOKING PROHIBITED IN STUDENT DORMITORIES.

Notwithstanding any other provision of this Chapter, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies, and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

138.05 DESIGNATION OF OTHER NONSMOKING AREAS.

Notwithstanding any other provision of this Chapter, any employer, owner, occupant, lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking and vaping is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking and vaping in the manner described in Paragraphs (A) and (B) of Section 138.03 of this Chapter.

138.06 EXEMPTIONS.

(A) Notwithstanding any other provision of this Chapter, smoking and vaping is allowed in the following areas:

(1) Private residences, except when used as a child care, adult day care, or healthcare facility or any other home-based business open to the public.

(2) Retail tobacco stores as defined in Section 138.01 of this Chapter in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Revenue by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after January 1, 2008 may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

(3) Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.

(4) Hotel and motel sleeping rooms which are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke or vapors from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25% of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms. The owner, manager or proprietor of the hotel or motel shall file with the Village Building department a sketch or other documents which clearly discloses the total number of sleeping rooms and which of those sleeping rooms are designated as smoking-permitted rooms.

(B) OUTDOOR PATIO EXEMPTION.

(1) A proprietor may designate an area as an outdoor patio where smoking is permitted only if the area:

(a) Is 15 feet or more from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited (Section 70 of the Act)

(b) Is a contiguous area of a place of employment or public place;

(c) Is controlled by the proprietor of the place of employment or public place;

(d) Has:

1. At least one entire side that consists of open space;

2. Permeable material;

3. A combination of open space and permeable material; or

4. A combination of open space, permeable material, and a non-permeable wall;

(2) If this area has four non-permeable walls, it shall have either no overhead covering or an overhead covering that consists of:

(a) Permeable material; or

(b) A combination of open space and permeable material.

(3) If an outdoor patio where smoking is permitted has a doorway that provides access from the indoor/enclosed area to the patio for outdoor patio patrons and does not have a wall that prevents individuals from entering the outdoor patio, the proprietor shall:

(a) Inform individuals that the doorway:

1. Is a doorway for outdoor patio patrons; and

(4) Direct individuals who are not outdoor patio patrons to an entrance to the indoor/enclosed area.

(C) A proprietor may designate smoking and non-smoking sections of an outdoor patio only if the smoking section is clearly and conspicuously separated from the non-smoking section and only if the smoking area is at least 15 feet away from the entrance, exit, windows that open, and ventilation intakes.

(D) If a proprietor designates an area where smoking is permitted, the proprietor shall not permit tobacco smoke to drift into indoor areas where smoking is prohibited through entrances, windows, ventilation systems, or other means.

(E) A proprietor may designate an area of the outdoor patio where smoking is prohibited.

138.07 ENFORCEMENT; COMPLAINTS.

(A) The Wauconda Police Department shall enforce the provisions of this Chapter and may assess fines pursuant to Section 138.08 of this Chapter.

(B) Any person may register a complaint with the Police Department for a violation of this Chapter.

138.08 VIOLATIONS; FINES; INJUNCTIONS.

(A) A person, corporation, partnership, association or other entity who violates Section 138.02 of this Chapter shall be fined pursuant to this Section. Each day that a violation occurs or continues to exist is a separate violation.

(B) A person who smokes in an area where smoking is prohibited under Section 138.02 of this Chapter shall be fined in an amount that is not less than \$100 and not more than \$250. A person who owns, operates, or otherwise controls a public place or place of employment that violates Section 138.02 of this Chapter shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$1,000 for each additional violation within one year after the first violation.

(C) The Village Administrator is authorized to seek, on behalf of the Village, an injunction from the Circuit Court to restrain and enjoin repeated violations of this Chapter.

(D) The fines and remedies provided under this Section 138.08 are not exclusive and are cumulative with any remedy and penalty provided by law.

138.09 ADMINISTRATIVE REGULATIONS.

Insofar as they may be applicable to the administration of this Chapter, the rules and regulations adopted from time to time by the Illinois Department of Public Health pursuant to the administration of Public Act 95-17, effective January 1, 2008, as amended, shall be utilized in the administration and enforcement of the provisions of this Chapter. Provided, however, the Village Administrator may adopt such additional and further rules and regulations as will effectively carry out the purposes and intent of this Chapter.

SECTION III: Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action arising, acquired or existing under any act or ordinance or portion thereof hereby repealed or amended by this ordinance; nor shall any just or legal right, claim, penalty or remedy of any character of the corporate authority existing on the effective date hereof be lost, impaired or affected by this Ordinance.

SECTION IV: All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict, hereby repealed.

SECTION V: If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the Corporate Authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not been included.

SECTION VI: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

Passed this ____ day of _____, 2018.

	Ayes:	Nays:	Absent/Abstain:
Linda Starkey	_____	_____	_____
Ken Arnsward	_____	_____	_____
Chuck Black	_____	_____	_____
Tim Howe	_____	_____	_____
Richard G. Morino	_____	_____	_____
Adam Schlick	_____	_____	_____

APPROVED:

By: _____ Date: _____
LINCOLN F. KNIGHT

ATTEST:

By: _____
CHERYL FALK-NOVAK, Village Clerk

Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on _____, 2018.

CHERYL FALK-NOVAK, Village Clerk

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