

11/11/14

ORDINANCE NO. CO-2016-14

AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE XI (BUSINESS REGULATIONS), CHAPTER 116 (TOBACCO), OF THE MAYWOOD VILLAGE CODE REGARDING TOBACCO ENFORCEMENT

WHEREAS, the Village of Maywood, as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the Village President and Board of Trustees have previously enacted Chapter 116 (Tobacco) of the Maywood Village Code relative to regulation of tobacco and tobacco sales within the Village; and

WHEREAS, among other things, the Illinois Municipal Code provides municipalities with the power to regulate and inspect tobacco (65 ILCS 5/11-20-3), to perform all acts and make all regulations necessary or expedient for the promotion of health or the suppression of diseases (65 ILCS 5/11-20-5), to regulate and prohibit those businesses which create nuisances within the Village (65 ILCS 5/11-42-9 and -10) and, to adopt and enforce all necessary police ordinances; and

WHEREAS, the Village President and Board of Trustees find that the health hazards of smoking and other uses of tobacco products, including the grave consequences of youth tobacco addiction, are well-documented, including through many years worth of opinions of the United States Surgeon General, and that the prevention of underage tobacco use and the deterrence of adults from engaging in the consumption of tobacco products continue to be in the best interests of the Village and its residents; and

WHEREAS, sales by certain retailers within the Village of cigarettes and other tobacco products in amounts other than those intended by the manufacturer for retail sale, and the sale of black market cigarettes and other tobacco products without State and County tax stamps, have been persistent problems encountered by Village and County enforcement agents; and

WHEREAS, given all of the foregoing, this President and Board of Trustees have determined that it is in the best interests of the health, safety, and welfare of the citizens of the Village to amend the Village's Code to more specifically address these issues.

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

SECTION 1: The above recitals are incorporated as if fully set forth herein as material terms and provisions.

SECTION 2: That Chapter 116 (Tobacco), Section 116.06 (Sale of Tobacco Products Other Than in Sealed Packages) of the Maywood Village Code is amended to read in its entirety as follows:

§ 116.06 SALE OF TOBACCO PRODUCTS OTHER THAN IN SEALED PACKAGES.

No retailer of tobacco products, as licensed by the Village under this chapter and § 111.31(A) of this Code, shall break or otherwise open any cigarette, cigar or smokeless tobacco package, or sell, distribute or give away individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum cigarette package size of 20 cigarettes, unpackaged cigars in a number that is smaller than the original, unbroken package intended by the manufacturer for retail sale, or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use. In the case of cigars only, it shall be a defense to a violation of this section that applicable taxes were paid by the retailer on the unopened package at the time of initial purchase by the retailer, that the cigars in the package were individually packaged in a manner that indicates they were intended for individual retail sale following such initial purchase by the retailer, and that the retailer is collecting tax on each sale of such individually packaged cigars. While on the licensed premises no retailer of tobacco products shall sell, distribute or give away individual cigarettes, cigars or any quantity of cigarette tobacco or smokeless tobacco or other tobacco products that are the personal property of the retailer and used for retailer's private use. No retailer of tobacco products shall be in possession of individual cigarettes, cigars or open packages of cigarettes, cigars or any quantity of cigarette tobacco or smokeless tobacco or other tobacco products that are the personal property of the retailer and used for retailer's private use while working at or standing within a 10-foot radius of the retail sales counter where tobacco products are made available for sale or distribution to customers. No individual cigarettes or open packages of cigarettes, cigars, cigarette tobacco or smokeless tobacco or other tobacco products that are the personal property of the retailer and used for retailer's private use shall be maintained or located within a 10-foot radius of the retail sales counter where tobacco products are made available for sale or distribution to customers.

SECTION 3: That Chapter 116 (Tobacco), Section 116.04 (License Application) of the Maywood Village Code is amended to read in its entirety as follows:

§ 116.08 REGULATIONS ON SALES OR DISTRIBUTION OF TOBACCO PRODUCTS.

(A) *Age restriction.* It shall be unlawful for any person, including any licensee or retailer, to sell, offer for sale, give away or deliver tobacco products to any person under the age of eighteen 18 years.

(B) *Proof of identification.* Each licensee shall request and examine the photographic identification of any person purchasing tobacco products so as to verify that the purchaser is 18 years of age or older.

(C) *Required signs.* Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at every display of tobacco products which offers tobacco products for sale or which is visible by any customer. Each such sign shall be plainly visible and shall state:

"THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN 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 1 inch high.

(D) *Vending machines prohibited.* It shall be unlawful for any person, licensee or retailer 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.

(E) *Prohibited locations.* It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within 500 feet of any school, child care facility or other building or location used for educational or recreational programs for persons under the age of 18 years. The distance requirement in this division (E) shall be measured from the center of the person's business location to the center of: (i) the school building, educational or recreational building or child care facility; or (ii) the lot used or maintained for educational or recreational programs. This prohibition shall not apply to those businesses engaged in the retail sale of tobacco products at a location that would otherwise be prohibited by this division that were in existence prior to the enactment of this division. This exemption shall apply to any new owner at the same location providing the same service.

(F) *Distribution of tobacco product samples prohibited.* No person shall give away, barter, exchange, distribute or in any way dispense free of charge or at nominal cost any tobacco product samples, and/or any coupon redeemable for any tobacco products, on any public street, alley, right-of-way, sidewalk, or in any public park, playground, or other property owned by the Village, any school district, library district or park district, including without limitation, areas open to the public in any publicly owned or operated building or at any place located within 500 feet of the lot line of any building or other

location used primarily as a school, child care facility, or for the education or recreation of persons under 18 years of age.

(G) *Compliance with laws.* Licensees must comply at all times with all federal, State, County, Village and other local laws, ordinances, rules and regulations relating to the license, the sale of cigarettes and other tobacco products, and the licensed premises, including, but not limited to, compliance with all provisions of the State Tobacco Products Tax (35 ILCS 143/10-1 *et seq.*) and the Cook County Tobacco Tax Ordinance (Cook County Code, Article XI, Section 74-430 *et seq.*). Findings of liability or guilt for federal, State, County or other local laws, ordinances, rules or regulations shall be prima facie evidence of a violation of this subsection.

SECTION 4: To the extent necessary, all table of contents, indexes, headings and internal references or cross-references to sections contained in the Maywood Village Code, as amended, that have been deleted or amended by the Code Amendments set forth above shall be amended by the Village's codifier so as to be consistent with the Code Amendments of this Ordinance.

SECTION 5: Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 6: All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed. Except as to the Code Amendments set forth above in this Ordinance, all Chapters and Sections of the Maywood Village Code, as amended, shall remain in full force and effect.

SECTION 7: This Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this 26th day of July, 2016, pursuant to a roll call vote as follows:

AYES: Mayor Edwenna Perkins, Trustee(s) I. Brandon, A. Dorris, M. Rogers,
M. Lightford and R. Rivers

NAYS: None


ABSENT: Trustee H. Yarbrough, Sr.

APPROVED by me as Village President, and attested by the Village Clerk, on this 28th day of July, 2016.


ATTEST:



VILLAGE CLERK



VILLAGE PRESIDENT



Published by me in pamphlet form this 28th day of July, 2016.



VILLAGE CLERK

