

ORIGINAL

ORDINANCE NO. CO-2017-15

**AN ORDINANCE AMENDING
TITLE XI ("BUSINESS REGULATIONS"), CHAPTER 116 ("TOBACCO")
OF THE VILLAGE OF MAYWOOD CODE OF ORDINANCES
TO INCREASE THE MINIMUM AGE
OF SALE, PURCHASE AND POSSESSION OF TOBACCO PRODUCTS
FROM EIGHTEEN (18) YEARS OF AGE TO TWENTY-ONE (21) YEARS OF AGE,
AND REGARDING TOBACCO LICENSING AND ENFORCEMENT**

WHEREAS, at the time of passage of this Ordinance, tobacco use remains a leading cause of preventable premature death in the United States, killing nearly half-a-million Americans and costing the nation almost \$200 billion in healthcare expenses and lost productivity each year; and

WHEREAS, tobacco use also increases the risks of heart disease, stroke, asthma, emphysema, pre-term delivery, low birth weight, lung cancer and many other types of cancer; and

WHEREAS, cigarettes are the only consumer products that, when used exactly as intended, kill up to one-third of regular users; and

WHEREAS, ninety-five percent (95%) of all adult smokers start smoking before they turn twenty-one (21) years old, the transition from experimental to regular smoking typically occurs around twenty (20) years old, and most people who are not smokers by twenty-one (21) years of age do not start smoking later in their lives; and

WHEREAS, there is strong evidence that people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age; and

WHEREAS, raising the legal sales age for cigarettes and tobacco products will reduce access to those products in stores among young adults between eighteen (18) and twenty-one (21) years old, and among youth who are younger than eighteen (18) years old; and

WHEREAS, raising the sales age will reduce access to cigarettes and tobacco products by youth because youth often acquire such products from older friends: ninety percent (90%) of people purchasing cigarettes for minors are between eighteen (18) and twenty (20) years old; and

WHEREAS, other jurisdictions that have increased the minimum sales age for cigarettes and tobacco products include the City of Evanston, the Village of Oak Park and the City of Chicago; and

WHEREAS, Article VII, Section 6(a) of the Illinois Constitution of 1970 provides that the “powers and functions of home rule units shall be construed liberally,” and was written “with the intention that home rule units be given the broadest powers possible,” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

WHEREAS, pursuant to 65 ILCS 5/1-2-1, the Village of Maywood (the “Village”) may make all rules and regulations to carry into effect the powers granted to the Village, such broad and general grant of authority complementing the Village’s home rule powers; and

WHEREAS, the Village Board therefore finds that establishing a minimum sales age of twenty-one (21) for the legal purchase and sale of tobacco products will reduce smoking and tobacco use among youth and young adults, and decrease the likelihood that persons under the age of twenty-one (21) will become smokers later in life; and

WHEREAS, the Village Board further finds that the increase in the minimum sales age will also reduce high school students’ opportunities to access tobacco products from sellers and will augment existing tobacco prevention and control programs and improve the general health of Maywood residents; and

WHEREAS, the Village Board finds that increasing the minimum age for the sale, purchase and possession of tobacco products, and regulating the continued licensing of retail tobacco dealers at locations where repeat violations regarding tobacco sales have occurred, are important to maintaining public safety and are within the Village’s power to regulate, and that these amendments further the public health, welfare and safety, and are in the best interests of the Village, its residents and the public.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS, PURSUANT TO THEIR HOME RULE AUTHORITY, SET FORTH AT ARTICLE VII, SECTION 6 OF THE ILLINOIS CONSTITUTION OF 1970, AS FOLLOWS:

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

SECTION 2: Chapter 116 (Tobacco), Section 116.01 (Legislative Findings and Declarations) of the Maywood Village Code is amended to read in its entirety as follows:

§ 116.01 LEGISLATIVE FINDINGS AND DECLARATIONS.

The Village President and Board of Trustees expressly find and declare that:

- (A) (1) Cigarette smoking is dangerous to human health;

(2) There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and various other medical disorders;

(3) The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in this country;

(4) The Director of the National Institute on Drug Abuse concluded that the majority of Americans who die each year from cigarette smoking became addicted to nicotine as adolescents before the age of legal consent;

(5) The National Institute on Drug Abuse found that cigarette smoking precedes and may be predictive of adolescent illicit drug use; and

(6) The Village finds that establishing a minimum sales age of twenty-one (21) for the legal purchase and sale of tobacco products will reduce smoking and tobacco use among youth and young adults, and decrease the likelihood that persons under the age of twenty-one (21) will become smokers or electronic cigarette users later in life. ~~present legislative scheme of prohibiting sales of tobacco products to persons under the age of 18 has proven ineffective in preventing such persons from using tobacco.~~

(B) The enactment of this chapter directly pertains to and is in furtherance of the health, welfare and safety of the residents of the Village, particularly those residents under 48 21 years of age.

SECTION 3: Chapter 116 (Tobacco), Section 116.08 (Regulations on Sales or Distribution of Tobacco Products) of the Maywood Village Code is amended to read at subsections (A), (B) and (C) 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 48 21 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 48 21 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~~ TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW."

The text of such signs shall be in red letters on a white background, said letters to be at least 1- inch high.

SECTION 4: Chapter 116 (Tobacco), Section 116.09 (Minimum Age to Sell Tobacco Products) of the Maywood Village Code is amended to read in its entirety as follows:

§ 116.09 MINIMUM AGE TO SELL TOBACCO 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 ~~18~~ 21 years of age to sell tobacco products in any licensed premises.

SECTION 5: Chapter 116 (Tobacco), Section 116.10 (Purchase or Possession by Minors Prohibited) of the Maywood Village Code is amended to read in its entirety as follows:

§ 116.10 PURCHASE OR POSSESSION BY MINORS PERSONS UNDER AGE 21 PROHIBITED.

(A) Purchase prohibited. It shall be unlawful for any person under the age of ~~18~~ 21 years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.

(B) Possession prohibited. It shall be unlawful for any person under the age of ~~18~~ 21 years to possess any tobacco products; ~~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.~~

(C) Any law enforcement officer who finds a person under twenty-one (21) years of age to be in possession of a tobacco product is authorized to seize and destroy the tobacco product.

SECTION 6: Chapter 116 (Tobacco) of the Maywood Village Code is amended by inserting new Section 116.13 (Post-Enforcement Matters), to read in its entirety as follows:

§ 116.13 POST-ENFORCEMENT MATTERS.

(A) During a twelve (12) month period following the revocation of a tobacco dealer's license for a business operating at a location within the Village, the Village shall not

consider or approve any applicant for a new tobacco dealer's license at that same location.

SECTION 7: 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 8: Each section, paragraph, clause and provision of this Ordinance is severable, 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 9: 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 10: This Ordinance shall be in full force and effect from and after its adoption, approval and publication in the manner provided by law.

ADOPTED this 2nd day of May, 2017, pursuant to a roll call vote as follows:

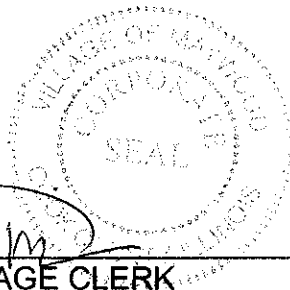
AYES: Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr., I. Brandon, A. Dorris, M. Rogers, M. Lightford and R. Rivers.

NAYS: None

ABSENT: None

APPROVED by me this 4th day of May, 2017, and attested by the Village Clerk on the same day.

ATTEST:





VILLAGE CLERK



VILLAGE PRESIDENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

CLERK'S CERTIFICATE

I, Viola Mims, Clerk of the Village of Maywood, in the County of Cook and State of Illinois, certify that the attached and foregoing is a true and correct copy of that certain Ordinance now on file in my Office, entitled:

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which Ordinance was passed by the Board of Trustees of the Village of Maywood at a Regular Village Board Meeting on the 2nd day of May, 2017, at which meeting a quorum was present, and approved by the President of the Village of Maywood on the 4th day of May, 2017.

I further certify that the vote on the question of the passage of said Ordinance by the Board of Trustees of the Village of Maywood was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Maywood, and that the result of said vote was as follows, to-wit:

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

NAYS: None

ABSENT: None

I do further certify that the original Ordinance, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Maywood, this 4th day of May, 2017.





Village Clerk