

AN ORDINANCE LICENSING RETAILER'S OF TOBACCO AND TOBACCO PRODUCTS IN
THE VILLAGE OF HOMER GLEN

WHEREAS, cigarette smoking and the use of other tobacco products by minors is a continuing problem which will result in grave public health consequences; and

WHEREAS, the Village Board has determined it to be necessary to regulate and control the sale of cigarettes and other tobacco products to curtail the ease at which minors appear to have access to cigarettes and tobacco products.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF HOMER GLEN, WILL COUNTY, ILLINOIS, THAT:

Section 1: Recitals -The foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein.

Section 2: Definition – Tobacco and Tobacco Products. Cigarettes, cigars or tobacco intended for human use, including loose tobacco, pipe tobacco, chewing tobacco and snuff.

Section 3: License Required – No person shall sell at retail or solicit or receive an order for, or keep or offer for sale, or keep with the intention of selling any tobacco or tobacco product without first obtaining a tobacco license from the Village for each location at which tobacco or tobacco products are sold. A separate tobacco license shall be required for each location from which tobacco or tobacco products are sold.

Section 4: Application - Applications for a tobacco license shall be made to the Village Manager and shall be on a form prescribed by the Village. The application shall be signed by the Applicant if an individual or by a duly authorized agent of the Applicant if the Applicant is not a natural person. All information and statements made in the Application shall be made and verified by oath or affidavit. The Application shall contain the following information:

- (a) The name, address, date of birth, telephone number, and social security number of the Applicant if the Applicant is an individual; or the name, address, date of birth, telephone number, and social security number of (i) each partner if the Applicant is a partnership or (ii) each manager of the Applicant if the Applicant is an entity or other organization.
- (b) The location and description of the premises or place of business for which the license is being applied for.
- (c) A statement whether Applicant has made a similar application for a license on any premises other than the premises described in the Application.
- (d) A statement that Applicant or any manager has never been convicted of a felony or otherwise disqualified to receive a license by reason of any matter or thing contained in the laws of Illinois or the ordinances of the Village.
- (e) A statement as to whether any previous license issued to Applicant by any State or other governmental unit or agency has been suspended or revoked and the reasons therefore.
- (f) A statement that the Applicant will not violate any of the laws of the state of Illinois or the provisions of this Ordinance in the conduct of business at the location for which the license is proposed.

Section 5: Ineligible Person – No license shall be issued to the following persons:

- (a) A person who is not a citizen of the United States;
- (b) A person who has been convicted of a felony under any federal or state law;
- (c) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (d) A person whose license under this Ordinance, or any similar regulatory ordinance or statute, has been revoked for cause;
- (e) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- (f) A person whose place of business is conducted by a manager or assistant manager or agent, unless said manager, assistant manager or agent possesses the same qualifications required by the licensee;
- (g) A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.

Section 6: Term of License – All tobacco licenses shall be for a term of one (1) year and shall terminate on the 30th day of April next following the issuance of the license, except that any license issued for a portion of the year shall have a term of less than one (1) year and the term thereof shall terminate on the 30th day of April next following the issuance of the license.

Section 7: Non-Transferability – A tobacco license is non-transferable, except that a new tobacco license will be issued to a licensee who changes location provided the licensee is otherwise eligible under the provisions of this Ordinance.

Section 8: Restrictions –

- (a) No licensee nor any officer, associate, member, representative, agent, or employee of such licensee shall sell, give, or deliver tobacco or tobacco products to any person under the age of eighteen (18) years.
- (b) No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell or permit to be sold tobacco or tobacco products to any person without requesting and examining identification establishing the purchaser's age as not less than eighteen (18) years unless the licensee has some other conclusive basis for determining the purchaser's age.
- (c) No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall knowingly distribute or furnish tobacco or tobacco products, or coupons for tobacco or tobacco products, without charge to any person under the age of eighteen (18) in any public place or at any event open to the public.
- (d) All tobacco and tobacco products shall be stored and offered for sale only from counters or in locked cases which shall not be readily accessible to persons under the age of eighteen (18) years.

Section 9: Suspension or Revocation – In addition to any penalty imposed hereunder, a tobacco license may be suspended or revoked by the Village Manager after notice and an opportunity to be heard in the event of a violation of this Ordinance or a violation of the laws of the State of Illinois relating to the sale of tobacco or tobacco products. The licensee shall be responsible for the costs of such hearing.

Section 10: License Fee – The fee for a tobacco license is \$ 250.00 for each license.

Section 11: Penalty – Any person found to have violated any of the provisions of this Ordinance shall, upon conviction thereof, be fined in an amount of not less than Two Hundred Fifty Dollars (\$250.00) and not more than Seven Hundred Fifty Dollars (\$750.00). A separate violation of this Ordinance shall be deemed to have been committed on each day during which a violation occurs or is permitted to continue.

Section 12: Severability – The various portions of this Ordinance are hereby expressly declared to be severable, and the invalidity of any such portion of this Ordinance shall not affect the validity of any other portions of this Ordinance, which shall be enforced to the fullest extent possible.

Section 13: Repealer – All ordinances or portions of ordinances previously passed or adopted by the Village of Homer Glen that conflict with or are inconsistent with the provisions of this Ordinance are hereby repealed.

Section 14: Effective Date - This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 20th day of December, 2005, with 6 members voting aye, 0 members voting nay, the President not voting, with 0 members abstaining or passing, and said vote being:

Mary Niemiec	<u> Aye </u>	Dale Vogelsanger	<u> Aye </u>
Margaret Sabo	<u> Aye </u>	Brian Andrews	<u> Aye </u>
Marcia DeVivo	<u> Aye </u>	Christopher Locacius	<u> Aye </u>

Approved this 20th day of December, 2005

Russ Petrizzo, Village President

Attest: _____
Gale Skroboton, Village Clerk