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**THE VILLAGE OF HOMER GLEN  
WILL COUNTY, ILLINOIS**

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**ORDINANCE  
NUMBER 08-012**

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**AN ORDINANCE ESTABLISHING POSSESSION OF  
TOBACCO RESTRICTIONS OF THE VILLAGE OF  
HOMER GLEN, WILL COUNTY, ILLINOIS**

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**JAMES P. DALEY, Village President  
Gale Skroboton, Village Clerk**

**MARCIA DE VIVO  
RUSSELL KNAACK  
CHRISTOPHER LOCACIUS  
MARY NIEMIEC  
MARGARET SABO  
LAUREL WARD**

**Trustees**

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**AN ORDINANCE ESTABLISHING POSSESSION OF TOBACCO  
PROHIBITION OF THE VILLAGE OF HOMER GLEN, WILL COUNTY,  
ILLINOIS**

**WHEREAS**, the Village of Homer Glen, Will County, Illinois, (the “*corporate authorities*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the corporate authorities are desirous of enacting ordinances in compliance with the Constitutions of the United States and the State of Illinois; and

**WHEREAS**, the State of Illinois, in its Sale of Tobacco to Minors Act codified in 720 ILCS 675/1 et seq., grants specific legislative or regulatory authority for prohibition of sale of tobacco to minors and prohibition of minors to purchase tobacco; and

**WHEREAS**, the corporate authorities, pursuant to 65 ILCS 5/11-1-1 and 5/11-60-2, may pass and enforce all necessary police ordinances and may define, prevent, and abate nuisances; and

**WHEREAS**, the corporate authorities, pursuant to 65 ILCS 5/11-1-8, have the ability prevent, reduce or control juvenile delinquency within the corporate limits; and

**WHEREAS**, the corporate authorities, pursuant to 65 ILCS 5/11-80-9, may regulate all activities having a tendency to annoy or endanger persons or property on the sidewalks, streets, and other municipal property; and

**WHEREAS**, this prohibition on the sale to minors and possession of tobacco and tobacco products by minors is necessary to help protect the safety and welfare of the citizens of Homer Glen; and

**WHEREAS**, this ordinance will help fight the delinquency of minors because smoking by minors can lead to other escalating offenses such as loitering, mischievous conduct, trespass as well as possession of drug paraphernalia, possession of marijuana, cocaine, heroin; and

**WHEREAS**, the corporate authorities has determined it is in the best interests of the citizens of Homer Glen to pass an ordinance requiring a prohibition of sales of tobacco and possession of tobacco by a minor.

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

**SECTION 1.** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**SECTION 2.** The Village of Homer Glen, Illinois, hereby establishes the following new ordinance to read, as follows:

**Sale to Minors and Minor Possession of Tobacco or Tobacco Products.**

A. Prohibition on sale of tobacco to minors; vending machines

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

(b) No minor under 16 years of age may sell any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family owned business which can prove that the sales clerk is in fact a son or daughter of the owner. For the purpose of this Section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing.

(c) Tobacco products listed above 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 under 18 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 ordinance, "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.

(d) Penalty. Any person violating this section of the ordinance shall be subject to a mandatory fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00), plus court costs.

B. Prohibition of possession by minor of tobacco or tobacco products

(a) No person under the age of eighteen years shall knowingly possess or use tobacco, in any of its forms, in any public place or business. No person under the age of eighteen years shall misrepresent his or her identity or age, or use false or altered identification, for the purpose of purchasing cigarettes or tobacco in any form.

(b) Violation: Whenever a police officer or police employee of the Village observes a violation of this section of the ordinance, he or she may confiscate the tobacco product for disposal and issue a violation notice to the person committing the violation. The violation notice shall be signed by the police officer or police employee and shall include the following:

1. The name of the person violating this Section and his or her address, if known.
2. The nature of the offense.
3. The amount of the penalty.

(c) Penalty. Any person violating this section of the ordinance shall be subject to a mandatory fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00), plus court costs.

C. Proceedings to enforce violations of this ordinance may be initiated and conducted in accordance with and pursuant to the provisions of the Village Ordinances providing for Administrative Adjudication of Code Violations or by any other means provided by law.

**SECTION 2:** If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

**SECTION 3:** All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4:** If any part of this Ordinance is found to be in conflict with any other ordinance, resolution, motion or order or parts thereof, the most restrictive or highest standard shall prevail.

**SECTION 5:** This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Adopted this 26<sup>th</sup> day of February, 2008 pursuant to a roll call vote as follows:

	<b>YES</b>	<b>NO</b>	<b>ABSENT</b>	<b>PRESENT</b>
De Vivo	X			
Knaack	X			
Locacius	X			
Niemiec	X			
Sabo	X			
Ward	X			
Daley (Village President)	-			
<b>TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>-</b>

**APPROVED** by the Village President on February 26, 2008.

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James P. Daley  
Village President

ATTEST:

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Gale Skrobuton  
Village Clerk