



AGENDA ITEM # 7

**AGENDA ITEM EXECUTIVE SUMMARY
Committee of the Whole Meeting
June 10, 2019**

Item Title: **An Ordinance Repealing and Replacing the Sale, Purchase of Tobacco Products.**

Staff Contact: Deputy Chief Shawn Kooistra

COMMITTEE OF THE WHOLE ACTION

Consider an ordinance repealing and replacing Chapter Nine of the Code of Ordinances of the Village of Roselle, Article V, Division 11, Section 9-343, for the sale and purchase of tobacco products.

Executive Summary:

Since 2001, the Village of Roselle has had an ordinance prohibiting the sale of tobacco to persons under the age of 18, as well as prohibiting the possession of tobacco by persons under the age of 18, mirroring state law. The State of Illinois recently passed new legislation prohibiting the sale of tobacco products to persons under the age of 21. Included in the legislation was the removal of possession of tobacco products by any age, as well as language to add electronic cigarettes to the definition of tobacco. This new law is effective July 1, 2019. We looked at our current ordinance and felt it was most appropriate to repeal and replace the ordinance with new language. The new language raises the age of sale and purchase of tobacco to 21, removes possession at any age, and adds electronic cigarettes to the definition of tobacco. In addition, the Roselle Adjudicative Fine Table would need to be modified to remove fines for Possession of Tobacco by a Minor as it has been removed from the law.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? N/A

Attachments:

Ordinance attached

AN ORDINANCE REPEALING AND RESCINDING SECTION 9-343, OF ARTICLE V, DIVISION 11, FOR THE SALE AND PURCHASE OF TOBACCO PRODUCTS. OF CHAPTER NINE OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROSELLE, AND REPLACING IT WITH A NEW SECTION 9-343.

WHEREAS, the Village of Roselle, since 2001, has had an ordinance prohibiting the sale and/or possession of tobacco products by persons under the age of 18; and

WHEREAS, the State of Illinois passed legislation effective July 1, 2019, prohibiting the sale of tobacco products to persons under the age of 21; and

WHEREAS, the State of Illinois removed possession of tobacco by any age from the statute; and

WHEREAS, the State of Illinois added language to the definition of tobacco to include electronic cigarettes; and

NOW THEREFORE BE IT ORDAINED, by the Mayor and Board of Trustees for the Village of Roselle, DuPage and Cook Counties, Illinois that Section 9-343 "Distribution or possession by minors" of Article V, "Merchants", Division 11 "Tobacco Dealers" of Chapter Nine "Licenses, Permits and Business Regulations" of the Roselle Village Code is hereby repealed and rescinded in its entirety and replaced with a new Section 9-342 which shall read as follows:

Sec. 9-343. – Sale and Purchase of Tobacco Products

- (a) *Definitions.* As used in this section, the term "tobacco" shall mean all tobacco and tobacco products as defined by current state statute, and as may be amended from time to time, including but not be limited to cigar, cigarette, smokeless tobacco, chewing tobacco, snuff, pipe tobacco, and electronic cigarettes, tobacco in any of its other forms, pipes, cigarettes papers, or rolling papers
- (b) *Prohibitions.* It shall be unlawful:
 - (1) *Sale to minors.* For any person, including a licensee, the licensee's employee or agent to sell, offer for sale, give away or deliver tobacco to any person under twenty one (21) years of age.
 - (2) *Under age purchase or misrepresentation of age.* For any person under twenty one (21) years of age to purchase tobacco or to misrepresent their identity or age in any manner for the purpose of purchasing tobacco.
 - (3) *Distribution public property.* For any licensee, licensee's employee or agent, or any other person in the business of selling or otherwise distributing, promoting, or advertising tobacco, to distribute, give away, or deliver tobacco products free of charge to any person, regardless of age, on any right-of-way, park, playground,

or other property owned by the village, or any school district, park district, or public library within the village.

- (c) *Signs.* Every licensed premises or vending machine offering tobacco for sale or distribution shall post a prominently displayed and plainly visible sign stating:

"THE SALE OF TOBACCO TO PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY ROSELLE VILLAGE ORDINANCE, CHAPTER 9, SECTION 9-343."

- (d) *Penalties.*

(1) Any licensee, employee, agent or adult who violates any provision of this section shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for a first offense. Repeat violators shall be fined not less than one hundred fifty dollars (\$150.00) and not more than five hundred dollars (\$500.00).

(2) Settlement. Any person accused of a first violation of this section may settle the claim by delivering the violator's copy of the ticket and cash, a check, or a money order made payable to the village at 31 South Prospect Street, Roselle, Illinois, in the following amounts:

a. First violation of section 9-343(b)(1): fifty dollars (\$50.00).

All subsequent offenses shall require a court appearance.

(3) Any fine not paid in conformance with subsection (d)(2) of this section, after being given written notice by the village, shall have ten (10) days to settle the ticket or shall appear in traffic court and be subject to fine not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense.

Any person charged simultaneously with more than one violation of this section shall appear in court on those charges, including first violations of subsection (b)(1).

SECTION 1: If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

SECTION 2: Any ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

SECTION 3: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as is hereby authorized and directed to be done by the Mayor and Board of Trustees.

AYES:

NAYES:

ABSTAIN:
ABSENT:

PASSED AND APPROVED THIS ____ DAY of _____, 2019.
PUBLISHED in pamphlet form this ____ DAY of _____, 2019.

Mayor, Village of Roselle

ATTEST:

Village Clerk