



AGENDA ITEM # 6

**AGENDA ITEM EXECUTIVE SUMMARY
Committee of the Whole Meeting
January 14, 2019**

Item Title: **Vaping Devices**

Staff Contact: Deputy Chief Roman Tarchala

COMMITTEE OF THE WHOLE ACTION

Consider a staff recommendation to amend Village of Roselle Code of Ordinances to add Article IV, Vaping Devices, and Section 12-40 through 12-42 of the Code of Ordinances of the Village of Roselle.

Executive Summary:

Over the past year, the police department has seen an increase in the number of persons under the age of 18 years of age who are utilizing vaping smoking devices in lieu of conventional tobacco products.

These alternative smoking devices can be filled with liquid nicotine, or can be filled with liquid solutions containing controlled substances. These substances can also be masked by utilizing appealing flavored smoke giving the perception of exhaling a pleasant scent.

Our school resource officers as well as our patrol officers have seen a steady increase in the use of all electronic smoking devices. We are requesting that the possession or use of a vaping device be prohibited to anyone under 18 years of age within the Village of Roselle as well as the use of a vaping device by any person in a public place as outlined in the proposed ordinance.

If approved by the Board the fine table in the ordinance would need to be amended to include vaping devices. The police department would recommend the same fine structure as a possession of tobacco by minor violation which is \$35 if paid within 14 days or \$70 if paid within 15-30 days of service, subsequent violations would be a must appear at an Adjudication Hearing.

Implications:

Is this item budgeted? N/A

Any other implications to be considered? None

Attachments:
Ordinance

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ORDINANCE
ARTICLE IV, CHAPTER 12, NUISANCES

WHEREAS, the Village of Roselle, as a non-home rule municipality, is legally authorized to adopt ordinances controlling public nuisances; and

WHEREAS, research into the direct and secondary effects of vaping devices has been ongoing; and

WHEREAS, recent research, addressing the effects of the use of vaping devices has found that when used on a daily basis the use: doubles the risk of heart attacks; can result in nicotine dependence; exposes users to high levels of ultrafine particles and other toxins that have been linked to increases in cardiovascular and non-cancer lung risks; expands the tobacco market to minors; and, in some instances, in addition to nicotine, can often contain a mixture of additional harmful chemicals such as formaldehyde and acrolein; and

WHEREAS, vaping devices used with e-juice JUUL pods are frequently flavored like fruit in order to make them more attractive to younger uses; and

WHEREAS, the American Lung Association concludes that vaping devices contain chemicals that can cause irreversible lung damage and alters teen brains; in some instances, contain chemicals which are used in weed killers; make younger and teenager users more likely to use traditional cigarettes; are irritants to the lung and increase the probability that a person will catch cold and flu infections; and

WHEREAS, members of the public not using vaping devices should not be forced to accept their secondary risks and effects in public places because they constitute a public nuisance.

WHEREAS, the Corporate Authorities of the Village of Roselle, based upon the foregoing information, have concluded that the use of vaping devices in public places and places subject to routine attendance by minors such as school buildings, school grounds, school athletic fields are a public nuisance.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees for the Village of Roselle, DuPage and Cook Counties, Illinois, that Chapter 12 “Nuisances” of the Code of Ordinances of the Village of Roselle is hereby amended by the addition of a new Article IV to be entitled “Vaping Devices”, Section 12-40 through 12-42, which shall read as follows:

SECTION 1: Article IV: VAPING DEVICES

Section 12-40 Findings. That the Corporate Authorities of the Village of Roselle find that the use of vaping devices constitute a public nuisance when possessed or used as described herein.

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SECTION 2:

Section 12-41. Definitions. The following words, terms and phrases when used in this Article IV shall have the following meanings except where the context clearly indicates a different meaning:

1. “Minor”: A minor is any person under the age of 18 years old.
2. “Public Place” means: properties of: the Village, other units of government, including, but not limited to, public parks, schools, building or lands owned or occupied by units of government, child care facilities; and other places of public accommodation, including restaurants.
3. “Vaping Device” means: any product which vaporizes a solid or a liquid into an inhalable vapor that provides for the ingestion into the body of the constituent elements of the vapor whether by, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by other means, including, but not limited to, e-cigarettes, e-smoking devices, JUULs, wax vape pens or any cartridge or component of a vaping device which may be filled or refilled with a solid or a liquid containing an alternative nicotine product or constituent elements which are not commonly inhaled when breathing but are intended to increase the density of alternative nicotine products or other substances for the pleasure of the user, but excluding any product approved by the United States Food and Drug Administration and as a tobacco cessation product or for other medical purposes when prescribed by a physician or health care provider, and marketed solely for any of the foregoing approved purposes.

Section 12-42. Prohibited. It shall be unlawful for:

1. Any minor to possess or use a vaping device within the Village of Roselle except in their permanent abode or in the permanent abode of another in which they are an invited guest; or
2. Any person to use a vaping device in a public place.

SECTION 3: 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.

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SECTION 4: Any Ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

SECTION 5: This Ordinance shall become effective upon passage, execution by the Mayor and publication as required by law.

AYES:
NAYES:
ABSTAIN:
ABSENT:

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

Andrew J. Maglio, Mayor, Village of Roselle

ATTEST:

Village Clerk