

**AN ORDINANCE ADDING CHAPTER __30-1(37)__ TO THE MUNICIPAL CODE OF THE VILLAGE OF
SPRING VALLEY, PIERCE COUNTY, WISCONSIN, POSSESSION OF TOBACCO AND VAPOR PRODUCTS BY
MINORS**

_____ **Definitions.**

For the purpose of construction and application of this section, the following definitions shall apply:

- A. "Minor" means an individual who is less than eighteen (18) years of age.
- B. "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to the state sales tax.
- C. "Person who sells vapor products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.
- D. "Possession of a tobacco product" shall mean either actual physical control of the tobacco product without necessarily owning that product, or the right to control the tobacco product even though it is in a different room or place than where the person is physically located.
- E. "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or premises, or in a public place of business or school.
- F. "Tobacco product" means a product that contains tobacco and is intended for human consumption, including but not limited to, cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in Section 2 of the Tobacco Products Tax Act, and cigars. Tobacco product does not include a vapor product or a product regulated as a drug or device by the United States Food and Drug Administration.
- G. "Use a tobacco product or vapor product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product or vapor product.
- H. "Vapor product" means any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an e-cigarette, e-cigar, e-cigarillo, e-pipe, or similar product or device for the purpose of simulating smoking. Further, a vapor product is a noncombustible product that may contain nicotine and that employs a heating element, power source, chemical, or mechanical means, regardless of shape or size that can be used to produce vapor or aerosol from a solution or other substance.

_____ **Prohibited conduct.**

- A. Consistent with Wis. Stat. §254.92, a minor shall not do any of the following:

1. Purchase or attempt to purchase a tobacco product or vapor product.
 2. Possess or attempt to possess a tobacco product or vapor product.
 3. Use a tobacco product or vapor product in a public place.
 4. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product or vapor product.
- B. No individual, regardless of age, who is enrolled in secondary school may possess or attempt to possess a tobacco product or vapor product while on school property.
- C. An individual who violates subsection 1. shall be subject to the penalties listed in the bond schedule.
- D. Subsection 1. does not apply to a minor participating in any of the following:
1. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the state police or a local police agency as part of an employer-sponsored internal enforcement action.
 2. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.
- E. Subsection 1. does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.
- F. This section does not prohibit an individual from being charged with, convicted of or found responsible for, or sentenced for any other violation of law that arises out of the violation of subsection 1.

Furnishing to minors.

- A. Consistent with Wis. Stat. §134.66; a person shall not sell, give or furnish any vapor product to a minor, including, but not limited to, through a vending machine.
- B. Subsection 1. of this section does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of the minor's employment.
- C. Before selling, offering for sale, giving, or furnishing a vapor product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by examining a government-issued photographic identification that establishes that the individual is at least eighteen (18) years of age.

Seizure of cigarette, tobacco, or vapor product.

A law enforcement officer shall seize any cigarette, tobacco, or vapor product involved in any violation of Section __30-1(37)_.

Penalty.

Any person who violates the provisions of this chapter shall be subject to a forfeiture of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) plus court costs, with each violation to be considered a separate offense.

Section 2. **Amending Code.** Section 30-1(37) of the Municipal Code is hereby amended to remove the following specific penalties from the Village bond schedule and create specific penalties for the following violations (addition indicated by underscore and deletion by strike through):

Section 3. **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, the remainder shall not be effected.

Section 4. **Effective Date.** This Ordinance shall take effect upon enactment and posting.

Enacted this 2nd day of June, 2020.

VILLAGE OF SPRING VALLEY

Marsha Brunkhorst

MARSHA BRUNKHORST, President

Countersigned:

Luann Emerson

LUANN EMERSON, Clerk

CERTIFICATE OF ENACTMENT

This is to certify that the foregoing Ordinance was duly enacted by the Village Board of the Village of Spring Valley on the 2 day of June, 2020.



Luann Emerson

LUANN EMERSON, Clerk

