

# Memo

To: Village Board  
From: Chris Clark, Director of Parks, Recreation, & Forestry  
Re: Creation of an Ordinance to Prohibit Smoking in Village Parks and Trails  
Date: June 7, 2016

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## Background Information:

At the April Parks, Recreation, and Forestry Committee meeting a resident approached the Committee with concerns of smoking in parks, in particularly around playgrounds and children. This individual requested that the Village enact an ordinance prohibiting the use of tobacco products and e-cigarettes in parks similar to the Village of Bellevue.

Staff researched this item and found only a few communities within the State of Wisconsin currently have such ordinances. Bellevue and Wisconsin Dells are two such communities. Further research found that many larger cities and counties throughout the country are beginning to become smoke free to promote healthy lifestyles.

The Committee discussed the use of cadets and signage as educational tools and that the littering with cigarette butts was a big issue as well. They further discussed striking the use of smokeless tobacco from a potential ordinance rather focusing on second hand smoke, littering, and promotion of healthy lifestyles within Village parks.

## Previous Information/Action:

The Parks, Recreation, and Forestry Committee recommended the Village Board create an ordinance prohibiting smoking of tobacco and electronic smoking devices in Village Parks at the May 24, 2016 committee meeting.

## Budget Item/Funding:

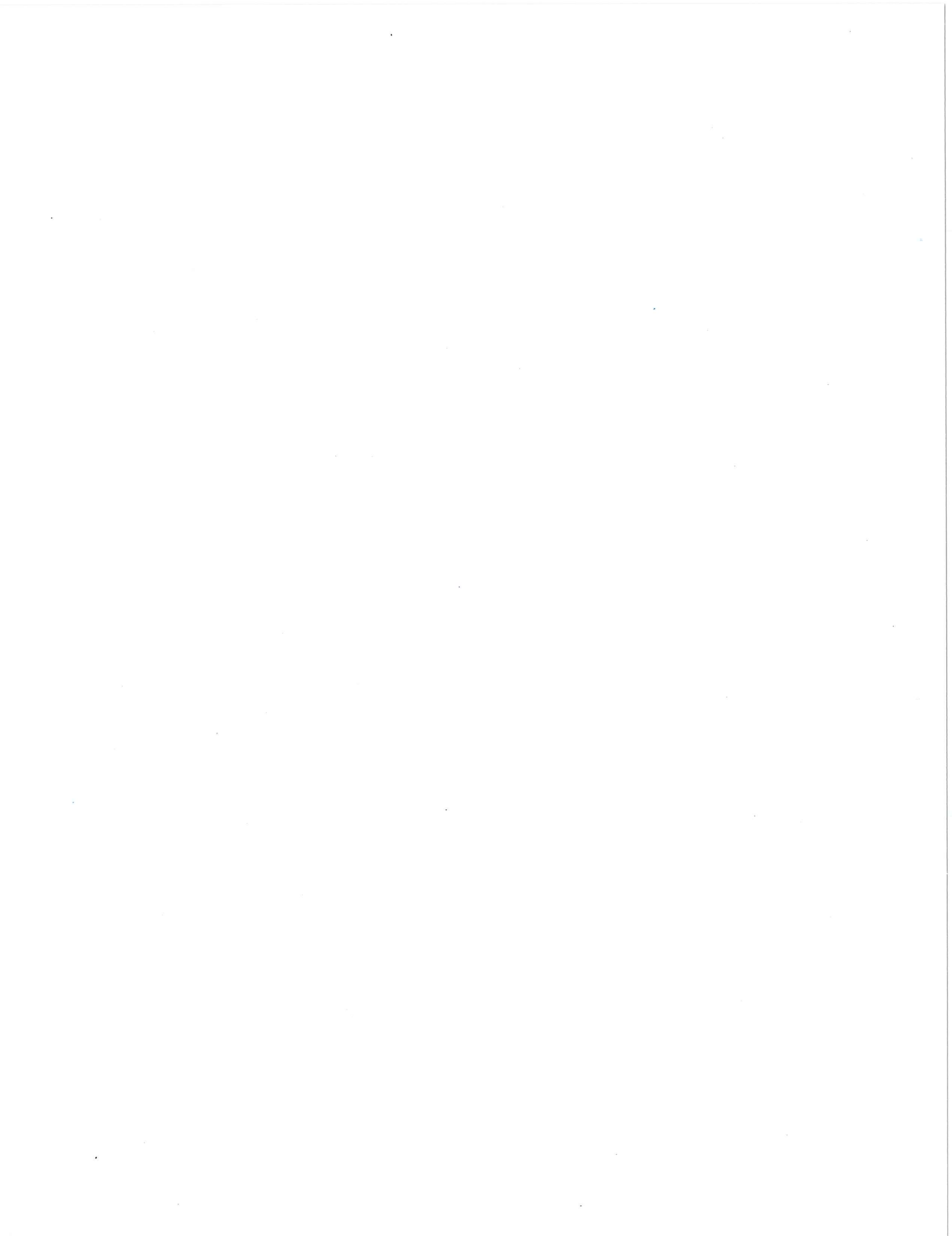
Not currently budgeted. Estimated cost for signage within all parks would be \$500 that could come out of our Parks Maintenance operating budget.

## Staff Recommendation:

Staff recommends the Village Board create an ordinance as recommended by the Parks, Recreation, and Forestry Committee.

## Attachments:

- Draft Ordinance - Tobacco Use and E-Cigarette Prohibited in Village Parks and Trails
- Village of Bellevue and City of Wisconsin Dells Ordinances



**VILLAGE OF ALLOUEZ, WISCONSIN**

**TOBACCO USE AND E-CIGARETTES PROHIBITED IN VILLAGE  
PARKS AND TRAILS**

**PURPOSE.** The purpose of this section is to protect the health, welfare, and safety of the public and to reduce littering upon public grounds by prohibiting the use of all tobacco related products and electronic smoking devices within and upon all village public parklands and trails.

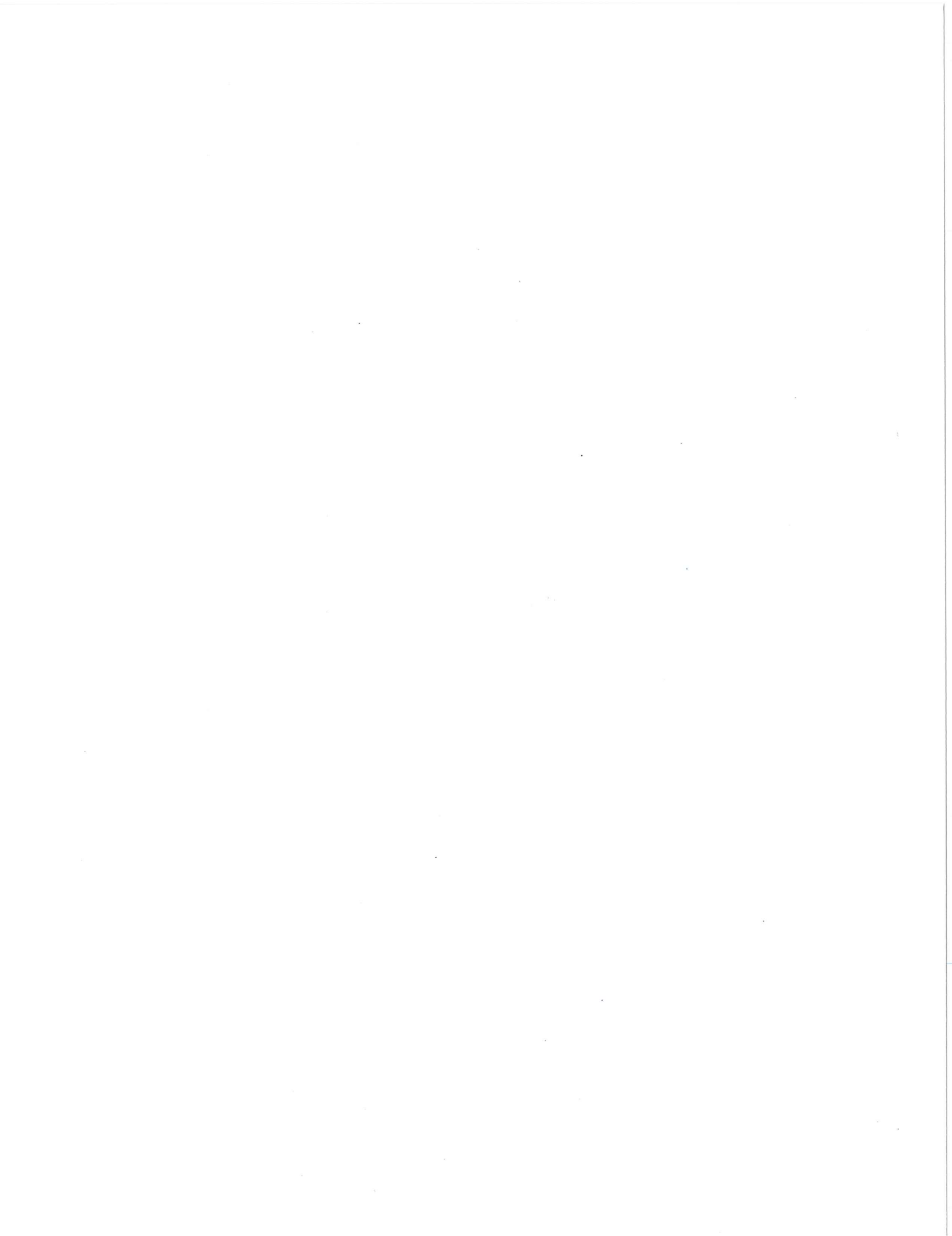
**DEFINITIONS.** The following terms, whenever used in this section, shall have the meanings set forth below:

**TOBACCO RELATED PRODUCTS:** All items that contain tobacco products including but not limited to cigarettes, cigars, pipes, ~~chewing tobacco, smokeless tobacco, and snuff.~~

**ELECTRONIC SMOKING DEVICES:** The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. E-cigarettes shall include any product containing or delivering nicotine or any other substance intended for human consumption that can be used by persons to simulate smoking through inhalation of vapor or aerosol from the product.

**PENALTY.**

- The penalty for failure to comply with this ordinance shall be subject to Section 1.05 of this code. ... forfeiture of not less than \$1 nor more than \$10,000 and such forfeiture and costs such person shall be committed to the Brown County jail until such forfeiture and costs are paid ...



*Village of Bellevue, WI  
Thursday, May 12, 2016*

## Chapter 335. Parks and Recreation

### **§ 335-23. Smoking, chewing tobacco and e-cigarettes prohibited in public parks and trails.**

[Added 2-11-2015 by Ord. No. O-2015-04]

Smoking of cigarettes, pipes and cigars, and use of chewing tobacco and e-cigarettes shall be prohibited in all Village parks and trails. E-cigarettes shall include any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

Village of Bellevue, WI  
Monday, May 23, 2016

## Chapter 1. General Provisions

### Article I. Construction and Penalties

#### § 1-4. Violations and penalties.

- A. General penalty. Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty which shall be as follows:  
[Amended 8-22-2012 by Ord. No. O-2012-23]
- (1) First offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$5 nor more than \$2,500, together with the costs of prosecution, and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
  - (2) Second offense. Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$5 nor more than \$2,500, together with the costs of prosecution, and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.
- B. Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- C. Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.
- D. Citation. Violations of nontraffic ordinances of the Village shall be enforced by the issuance of a municipal citation:
- (1) Information required. The municipal citation shall contain the following information:
    - (a) The name and address of the alleged violator.
    - (b) Factual allegations describing the alleged violation.
    - (c) The time and place of the offense.
    - (d) The section of the Code violated.
    - (e)

3. "Law Enforcement Officer" has the meaning given in s. 30.50(4s), Wis. Stat.
  4. "Tobacco Products" has the meaning given in s. 139.75(12), Wis. Stat.
  5. "Nicotine Product" has the meaning given in s. 134.66(1)(f), Wis. Stat.
- (ii) Except as provided in subsection (iii), no minor may do any of the following:
1. Buy or attempt to buy any cigarettes, tobacco product, nicotine product, or tobacco-related device.
  2. Falsely represent their age for the purposes of receiving any cigarette, tobacco product, nicotine product, or tobacco-related device.
  3. Possess any cigarette, tobacco product, nicotine product, or tobacco-related device.
- (iii) A minor may purchase or possess cigarettes, tobacco products, nicotine products, or tobacco-related devices for the sole purpose of resale in the course of employment during their working hours if employed by a retailer licensed under s. 134.65(1), Wis. Stat.
- (iv) A law enforcement officer shall seize any cigarette, tobacco product, nicotine product, or tobacco-related device involved in any violation of subsection (b) committed in their presence.
- (v) No person may procure for, sell, dispense, furnish, or give away any cigarette, tobacco product, nicotine product, or tobacco-related device to a minor.

**(3) Outdoor Smoking in Public Places.**

- (a) Smoking prohibited. To protect the health and comfort of the public, outdoor smoking is prohibited in the following public property under the jurisdiction of the city:
- (i) Bowman Park
  - (ii) Rotary Park
  - (iii) Veterans Park
  - (iv) Jenkins Park
  - (v) Deerwood Glen Park
  - (vi) Weber Park
  - (vii) RiverWalk
  - (viii) Library Park

**18.05 WEAPONS**

- (1) Reference to State Statutes Adopted. See generally Code of Ordinance ss. 18.941.20 to 18.941.299.

violation, be subject to a penalty, which shall be as follows:

- (a) **First offense.** Any person who shall violate any section of this Code shall, upon conviction thereof, forfeit not less than \$25.00 or more than \$1,000.00, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days; provided, however, that imprisonment under this subsection shall be imposed only in accordance with the provisions of Wis. Stats. §§ 800.09 and 800.095.
- (b) **Second offense.** Any person found guilty of violating any section or port of a section of this Code who shall previously have been convicted of a violation of the same section within one year shall, upon conviction thereof, forfeit not less than \$50.00 or more than \$1,000.00 for each such offense, together with costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs of prosecution are paid, but not exceeding 90 days; provided, however, that imprisonment under this subsection shall be imposed only in accordance with Wis. Stats. §§ 800.09 and 800.095.
- (2) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of any section of this Code.
- (3) **Other Remedies.** The City shall have any and all other remedies afforded by state statutes in addition to the forfeitures and costs of prosecution in this section.
- (4) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the City, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

### **30.05 REPEAL OF GENERAL ORDINANCES**

All ordinances heretofore adopted by the Common Council of the City of Wisconsin Dells are hereby repealed, except all ordinances or parts of ordinances relating to the following subject and not conflicting with any of the provisions of this Code:

The issuance of corporate bonds and notes of the City of Wisconsin Dells of whatever name or description.

The fixing of salaries of public officials and employees.