



Agenda Cover Memorandum

Meeting Date: July 10, 2017

Meeting Type: COW (Committee of the Whole) City Council Budget Workshop

Item Title: Approve first reading of an Ordinance Regulating Electronic Smoking Devices

Action Requested: Approval For Discussion Feedback Requested For Your Information

Staff Contact: Adam Simon Phone #: 847-856-5440 Email: asimon@ancelglink.com
Sergeant Gene Ware 847-318-5252 gware@parkridgepolice.org

Background:

In March 2017, SRO Raitano, Maine South School Resource Officer, requested that the City consider regulating the use of electronic smoking devices in the same manner which it regulates tobacco products. SRO Raitano made this request as a result of his experiences working with students who have electronic devices on campus. SRO Raitano related to staff that these devices, which can resemble zip or thumb drives, are being used by students to foster the use of nicotine and other controlled substances. These devices are available on-line and detection of them as a smoking device is challenging. SRO Raitano discovered that the City Code does not address these devices so he has requested a change to the ordinance.

Based on this request, the City Attorney was asked to draft an ordinance amending the City's tobacco regulations to include electronic smoking devices. According to the attached ordinance, the definition of an electronic smoking device is described below:

Electronic Smoking Device means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen, vape pens or any other product name or descriptor. An electronic smoking devices excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

By adopting this ordinance, the regulations affecting indoor smoking and the retail sale of tobacco products would be expanded to include electronic smoking devices. In short, all of the rules affecting the use or sale of cigarettes would apply to e-cigarettes and related products.

Maine Community Youth Assistance Foundation (MYCAF) has reviewed the attached ordinance and expressed its support for the change. Furthermore, MYCAF has requested that first offenders who are minors be granted an opportunity to participate in an educational diversion program to reduce the otherwise applicable fine. A new provision which mirrors the opportunity given to first time offenders for underage drinking has been added to the ordinance. The cost of the MYCAF diversion program is \$250. To ensure there is an incentive for minors to participate in the diversion program, the standard penalty for unlawfully purchasing or possessing tobacco products shall increase from \$100 to \$500.

See the attached article for more background information.

Finally, the definition of drug paraphernalia has been broadened by eliminating the list of specific devices so that the definition is based on the actual use of a product rather than its trade name or street name. In this manner, any device which is actually used in ingesting, smoking, administering or preparing cannabis or other regulated substances can be considered paraphernalia without it needing to be identified by name in the ordinance.

Recommendation:

1. Approve first reading of an Ordinance Regulating Electronic Smoking Devices

Attachment(s), if any:

- An Ordinance Regulating Electronic Smoking Devices
- Newspaper article "Parents educated on teen vaping during Maine South panel"

**CITY OF PARK RIDGE
COOK COUNTY, ILLINOIS**

ORDINANCE _____

AN ORDINANCE REGULATING ELECTRONIC SMOKING DEVICES

WHEREAS, the City of Park Ridge is an Illinois home rule municipal corporation operating under the authority of the Constitution and laws of the State of Illinois; and

WHEREAS, on March 6, 2006, in exercise of its home rule power, the City enacted Ordinance 2006-19 whereby it regulates smoking in places of employment and public places; and

WHEREAS, on July 23, 2007, the Smoke Free Illinois Act was enacted to further regulate smoking in places of employment and public places; and

WHEREAS, Section 65 of the Smoke Free Illinois Act, 40 ILCS 82/65, expresses that municipalities may regulate smoking in public places more strictly than otherwise provided by the Act; and

WHEREAS, electronic smoking devices, commonly known as “e-cigarettes,” “e-cigars,” “e-cigarillos,” “e-pipes,” “hookah pens”, “e-pens”, or “vape pens” etc., are battery operated devices designed to look like and to be used in the same manner as conventional tobacco products; and

WHEREAS, electronic smoking devices employ the use of a cartridge, generally containing up to 20 mg of nicotine, to deliver vaporized nicotine to users; and

WHEREAS, some cartridges used by electronic smoking devices can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine; and

WHEREAS, some cartridges used by electronic smoking devices can be filled or re-filled with liquid solutions containing controlled substances, creating the potential for inhalation and exposure to controlled substances; and

WHEREAS, the U.S. Food and Drug Administration (FDA) conducted laboratory analysis of electronic smoking device cartridges and found the following:

- Diethylene glycol, an ingredient used in antifreeze and toxic to humans, was found in one cartridge;
- Certain tobacco-specific nitrosamines, which are human carcinogens, were detected in half of the samples tested;
- Tobacco-specific impurities suspected of being harmful to humans—*anabasine*, *myosmine*, and β -*nicotyrine*—were detected in a majority of the samples tested;
- All but one tested cartridge labeled as containing no nicotine did in fact contain low levels of nicotine;
- Three identically labeled cartridges emitted markedly different amounts of nicotine with each puff. Nicotine levels per 100 mL puff ranged dramatically from 26.8 to 43.2 mcg nicotine; and
- One high-nicotine cartridge delivered twice as much nicotine to users as was delivered by a nicotine inhalation product approved by FDA for use as a smoking cessation aid which was used as a control; and

WHEREAS, clinical studies about the safety and efficacy of electronic smoking devices for their intended use have not been submitted to the FDA, and for this reason, consumers currently have no way of knowing:

- Whether electronic smoking devices are safe for their intended use;
- What types or concentrations of potentially harmful chemicals the products contain; and
- What dose of nicotine the products deliver; and

WHEREAS, the FDA has raised concerns that electronic smoking devices, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products; and

WHEREAS, the FDA has also raised concerns that electronic smoking devices are marketed and sold to young people and are readily accessible online and via mall kiosks; and

WHEREAS, the CDC and FDA have found that e-cigarette use rose among high school students from 1.5% to 16% from 2011 to 2015 (See Centers for Disease Control and Prevention. Tobacco Use Among Middle and High School Students - United States, 2011 -2015. Morbidity and Mortality Weekly Report 2016; 65(14): 361-367); and

WHEREAS, the federal law restricting the sale of tobacco products to minors currently applies only to cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco, but not electronic smoking devices; and

WHEREAS, electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products; and

WHEREAS, a study published in the Journal of Environmental and Public Health suggests that electronic smoking devices “may have the capacity to ‘re-normalize’ tobacco use in a demographic that has had significant denormalization of tobacco use previously”; and

WHEREAS, the use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Park Ridge, in exercise of its home rule powers, as follows:

Section 1. Recitals; Authority.

A. The foregoing recitals contain findings of fact and references to widely available publications that represent the grounds relied upon by the Corporate Authorities to enact this Ordinance and as such are incorporated by reference as though fully restated herein.

B. The regulations enacted by this Ordinance are an exercise of both the City's home rule power and the authority bestowed on the City by the Smoke Free Illinois Act, both of which permit the City to adopt public health regulations which are more restrictive than State law. Therefore, the failure of one source of authority, generally or to any particular application of these regulations, shall not result in the invalidity or unenforceability of the regulations adopted by this Ordinance. It is the intent of the Corporate Authorities for this Ordinance to be interpreted and applied liberally to most effectively accomplish the purposes heretofore described.

Section 2. Indoor Smoking Regulations. Article 5, Chapter 17 of the City of Park Ridge Municipal Code (the "City Code"), "Smoking," is hereby amended by revising Section 5-17-1 as described below:

The City of Park Ridge adopts Sections 1 through 35 and Section 70 of the Smoke Free Illinois Act, 410 ILCS 82/1 et seq., and any future revisions or amendments thereto. Furthermore, for the purpose of this Chapter the term "smokes" or "smoking" shall be interpreted to include the use and operation of an electronic smoking device. An electronic smoking device is an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen, vape pen or any other product name or descriptor. An electronic smoking devices excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

Section 3. Retail Smoking Regulations. Article 12, Chapter 9 of the City Code, "Tobacco Products," is hereby amended by revising Section 12-9-1 as described below:

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- A. *Tobacco Products* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,

snuff, chewing tobacco or dipping tobacco, nicotine gels and dissolvable nicotine products or any electronic smoking device.

- B. *Vending Machine* means any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.
- C. *Electronic Smoking Device* means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. “Electronic Smoking Device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen , vape pens or any other product name or descriptor. An electronic smoking devices excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

Section 4. Juvenile Diversion Program. A new section providing for an educational diversion program in lieu of monetary fines for juveniles which violate Article 12, Chapter 9 shall added as a new Section 12-9-13 as set forth below:

12-9-13 – ALTERNATIVE PENALTIES; MINORS

If the offense is related to Sections 12-9-6 or 12-9-7 of this Chapter, the minor is a first-time offender and is enrolled as a student as Maine Township High School District 207 (or another equivalent secondary school), the court or administrative adjudication hearing officer may assign the offender to a diversion and education program that is approved by the Board of Education of Maine Township High School District 207. If the violator agrees to attend such a program, the violator shall pay for the cost of the program and a fine of \$25.00 for a first offense.

Section 5. Penalties. The penalties prescribed in Sections 12-9-6(B) and 12-9-7(B) shall be increased from \$100 per violation to \$500 per violation.

Section 6. Drug Paraphernalia Regulations. Article 14, Chapter 16 of the City Code, “Control of Controlled Substances and Instruments Used for Inhaling or Ingestion of Controlled Substances,” is hereby amended by revising the definition for “Instrument” as described below:

Instrument: A device used, designed for use, or intended for use in ingesting, smoking, administering or preparing cannabis as heretofore defined in Section 14-16-1 of this Chapter, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance, ~~and includes the following:~~

- ~~A. Metal, Wooden, acrylic, glass, stone, plastic or ceramic marijuana (Cannabis Sativa) or hashish pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~
- ~~B. Water pipes designed for use or intended for use with marijuana (Cannabis Sativa), hashish, hashish oil or cocaine;~~
- ~~C. Carburetion tubes and devices;~~
- ~~D. Smoking and carburetion masks;~~
- ~~E. Roach clips;~~
- ~~F. Separation gins designed for use or intended for use in cleaning marijuana;~~
- ~~G. Cocaine spoons and vials;~~
- ~~H. Chamber pipes;~~
- ~~I. Carburetor pipes;~~
- ~~J. Electric pipes;~~
- ~~K. Air driven pipes;~~
- ~~L. Chilams~~
- ~~M. Bonges; and~~
- ~~N. Ice pipes or chillers.~~

Section 6. Severability. In the event any of the regulations hereby adopted, or any application thereof, is found to be invalid or unenforceable, notwithstanding Section 1 of this Ordinance, it is the intent of the Corporate Authorities for such provision or application to be severable from the remaining provisions and applications of such regulations, and such finding shall not diminish or avoid the effectiveness of the remaining provisions or applications.

Section 7. Effective Date. The regulations adopted by this Ordinance shall become effective upon adoption in the manner provided by law.

Section 8. Publication. The City Clerk is hereby authorized and directed to publish said Ordinance in pamphlet form according to law.

Adopted by the City Council of the City of Park Ridge, Illinois this ____ day of _____, 2017.

VOTE:

AYES: _____

NAYS: _____

ABSENT: _____

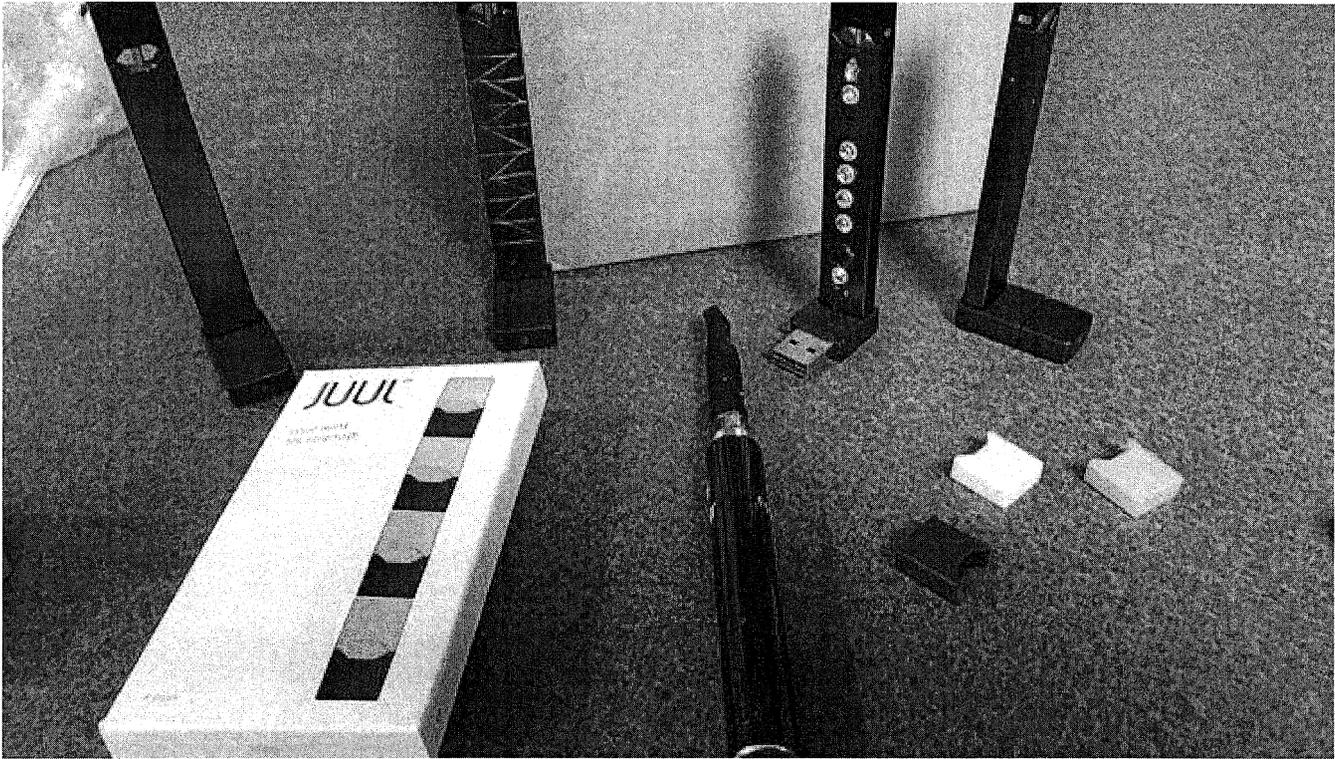
Approved by me this
_____ day of _____, 2017.

Acting Mayor Marty Maloney

Attest:

City Clerk

Parents educated on teen vaping during Maine South panel



JUUL e-cigarettes and nicotine cartridges are displayed during an educational panel on teen vaping hosted by the Maine Community Youth Assistance Foundation on March 30 at Maine South High School in Park Ridge. (Jennifer Johnson / Pioneer Press)

By **Jennifer Johnson**
Pioneer Press

APRIL 4, 2017, 1:44 PM

They look a lot like flash drives, but their purpose has nothing to do with saving computer files.

The slim, chargeable devices with a USB on the end are a type of electronic cigarette known as a JUUL, and, according Park Ridge police officer Anthony Raitano, they are confiscated with frequency at Maine South High School, where he works.

"Just about every day, we're taking them," Raitano, the school's resource officer, said following a March 30 panel discussion on teens and e-cigarette use hosted by the Maine Community Youth Assistance Foundation.

Held at Maine South before a group of about 25 parents, the discussion centered around vaping, the term used for smoking e-cigarettes, and what parents should be aware of regarding the devices — including what they look like.

Teri Collins, executive director of MCYAF, explained that vaping can include smoking flavored oils that are sold at smoke shops, as well as nicotine and marijuana. The latter, Collins said, can become "very, very potent" if heated and placed in an e-cigarette because a high amount of THC, the psychoactive ingredient in marijuana, is extracted.

The vapor that is emitted from e-cigarettes has no odor, but still emits toxic chemicals, which can be carcinogenic, said Collins, who has a Ph.D in organic chemistry and a background in prescription medication development, research, and education.

The U.S. Surgeon General has reported that e-cigarettes "can contain harmful and potentially harmful ingredients" and are deemed "unsafe" for youth.

The nicotine cartridges for a JUUL e-cigarette are about the size of a thumbnail and come in packages that look like they contain chewing gum, Raitano said.

"We find these things laying all over the school," he added, holding up the tiny square cartridge.

Not all students are hiding their habits. Raitano said e-cigarettes were recently confiscated from six Maine South students after a photo of the students smoking them in a locker room was shared on the social media app Snapchat. Vaping in bathrooms happens too, he said.

Collins said that vaping can cause chronic coughs, and overdosing on nicotine is also possible.

"You can get nicotine poisoning," she said.

A current Maine South senior who participated in the panel discussion spoke openly about how vaping nicotine affected him — and led him to eventually give it up.

"The amount of nicotine I was smoking was 12 ml. That's a lot of cigarettes per each pull out of the vape; I was constantly puffing on it," he shared. "I felt this sharp pain in my stomach for a month and didn't know what it was. My mom had been telling me at this point for three, four months, 'You've got to stop vaping. It's killing you; it's not good for you.' I never really thought about it that much because I was like, 'I'm vaping. I'm not smoking plain cigarettes. This is good.' "

After dealing with symptoms like stomach pain, nausea and vomiting, the student said he received an article from his mother about nicotine poisoning from e-cigarettes. He stopped smoking that day, he said.

"I haven't vaped in a couple of weeks, and I feel fantastic," he said.

But many of his friends haven't stopped, the student acknowledged.

"If you're addicted to something, you're not going to stop if someone just tells you. That's not how it works," he said. "I had to be at the bottom, which was feeling that sick. It made me realize, 'Yeah, I should probably stop.'"

In an effort to address the problem of vaping among teens, the police department is proposing to add language to Park Ridge's local ordinance prohibiting tobacco usage by minors to include e-cigarettes, including the JUUL types, Raitano said. Without the additional language, a citation issued by the police department, which comes with a fine, could get dismissed, he explained.

"Right now, we have no teeth," Raitano said. He also pointed out that JUULs can be used as drug paraphernalia as well.

At the school level, students can face punishment for smoking or possessing an e-cigarette on school grounds, said Principal Shawn Messmer. The type of punishment depends on the circumstance, he said, but in general can result in a Saturday detention. A device found with marijuana can lead to a local ordinance citation, Messmer said.

The Maine South student handbook addresses e-cigarettes, pointing out that they are not to be used on school grounds by anyone, even adults, he said.

"I think kids are fairly aware this is something they shouldn't be doing and it's not healthy," Messmer said. "My concerns are not a lot different than if we talking 30 years ago when a lot more people smoked cigarettes. It's just tougher to catch [teens smoking e-cigarettes] because these things tend to be odorless. It can lull a student into thinking, 'Oh, this isn't too bad.'"

Park Ridge police are also reaching out to neighboring departments, like Des Plaines and Chicago, to stop area vape shops from illegally selling nicotine and smoking devices to people under age 18, Raitano indicated.

But, Collins said, the same items can be easily bought on the internet, too. A JUUL, for example, can be bought for \$60, she said.

"This is the stuff that comes with affluence and peer acceptance of it," Collins said.

Raitano spoke of the need for the proper punishment to come from parents in order to stop the behavior.

"That's where the parents have to step in and take charge," he said.

Messmer said Maine South is also working to keep students from engaging in vaping.

"We're trying to be diligent to educate the kids and stay on top of those who make poor decisions," he said.

jjohnson@pioneerlocal.com

Twitter: @Jen_Tribune

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