



Legislation Details (With Text)

**File #:** 16-1054      **Version:** 1      **Name:** 7/18/16 - Tobacco 21 Ordinance  
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**File created:** 7/18/2016      **In control:** City Council  
**On agenda:** 8/4/2016      **Final action:** 8/4/2016  
**Enactment date:** 7/18/2016      **Enactment #:** ORD-16-17

**Title:** An Ordinance to Add a New Section 9:328a, to Amend Sections 9:328, 9:329 and 9:333, and to Repeal Sections 9:330, 9:331, and 9:332 of Chapter 118, Tobacco Regulation, of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-16-17)

**Sponsors:** Julie Grand, Chuck Warpehoski, Kirk Westphal, Sabra Briere, Christopher Taylor

**Indexes:**

**Code sections:**

**Attachments:** 1. 16-17 Tobacco Regulation Chapter 118 Briefed as Amended and Approved.pdf, 2. 16-17 Tobacco Regulation Chapter 118 Briefed as Amended, 3. Tobacco Regulation Chapter 118, 4. Tobacco Ordinance Communication.pdf, 5. Tobacco Ordinance Communication from Kendall Stagg.pdf, 6. B-1 Cliff Douglas Statement on behalf of ACS CAN (2016-08-04), 7. Tobacco 21 Letter.pdf, 8. Tobacco 21.pdf, 9. Support Communications for Tobacco Ordinance.pdf, 10. Washtenaw County Resolution Supporting City Council Tobacco Ordinance.pdf

Date	Ver.	Action By	Action	Result
8/4/2016	1	City Council	Held and Closed	
8/4/2016	1	City Council	Adopted on Second Reading	Pass
7/18/2016	1	City Council	Approved as Amended on First Reading	Pass

An Ordinance to Add a New Section 9:328a, to Amend Sections 9:328, 9:329 and 9:333, and to Repeal Sections 9:330, 9:331, and 9:332 of Chapter 118, Tobacco Regulation, of Title IX of the Code of the City of Ann Arbor (Ordinance No. ORD-16-17)

*Rationale*

Section 9:328a presents the rationale for increasing the minimum legal age of access for tobacco products from 18 to 21, a policy known as Tobacco 21. Tobacco use continues to rank as the leading preventable cause of death in Michigan. For the first time in 20 years, adult smoking rates in Washtenaw County have increased. Locally, high school students report relatively easy access to tobacco products, including electronic smoking devices. Social networks of near-aged peers (ages 18 to 20) are a common source of these products for younger adolescents.

Tobacco 21 policy targets initiation, as well as the transition period from experimental to regular tobacco use. By curtailing social sources of tobacco products, the Institute of Medicine predicted that raising the minimum legal age of access to 21 nationwide would delay initiation by 12%, with the largest proportionate reduction in initiation likely occurring among adolescents ages 15-17. Instituting additional access barriers for 18-20 year olds simultaneously addresses the fact that the majority of tobacco users transition from experimental to habitual use by the age of 21.

Tobacco 21 policies are increasingly common and well supported by the public. Three states (California, Hawaii, and Massachusetts), as well as scores of local communities have successfully implemented this change. Nationally, 70.5% of people, including 57.8% of people who currently

smoke, support raising the minimum age of legal access to 21.

*Amendments*

Section 2 presents the shift in the minimum age of legal access from 18 to 21. In addition to tobacco products, section 9:328b defines electronic smoking devices and expands the existing ordinance to include these products. Due to certain restrictions in state law, transportation companies and vending machine operators are exempt from Tobacco 21. Signage for tobacco products and electronic smoking devices mirrors the existing ordinance requirements, replacing 18 with 21 years of age.

*Repealed Sections*

One of the additional benefits of the proposed ordinance is the repeal of penalties for underage possession of tobacco products. Effective tobacco prevention policy should not punish adolescents and young adults for experimentation with or addiction to tobacco products. Instead, violations and penalties are limited to retailers. Penalties can be assessed up to \$500.00, which allows for discretionary actions, including education and warnings.

Sections related to affirmative defense were also removed from the ordinance. Inclusion of affirmative defense is not only confusing to the lay public, but weakens the City’s ability to enforce 21 as the minimum age of legal access for tobacco products and electronic smoking devices.

Sponsors: Councilmembers Grand, Warpehoski, Westphal and Mayor Taylor  
ORDINANCE NO. ORD-16-17

First Reading:	July 18, 2016	Approved:	August 4, 2016
Public Hearing:	August 4, 2016	Published:	August 11, 2016
		Effective:	January 1, 2017

TOBACCO REGULATION

AN ORDINANCE TO ADD A NEW SECTION 9:328a, TO AMEND SECTIONS 9:328, 9:329 AND 9:333, AND TO REPEAL SECTIONS 9:330, 9:331, AND 9:332 OF CHAPTER 118, TOBACCO REGULATION, OF TITLE IX OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Chapter 118, of Title IX of the Code of the City of Ann Arbor be amended to add a new section 9:328a to read as follows:

9:328a. Findings.

That the City Council of the City of Ann Arbor hereby finds:

That tobacco use is the number one cause of preventable death in Michigan and continues to be an urgent public health challenge, as evidenced by the following:

- 16,200 Michigan adults die from smoking-related diseases every year;
- Nearly one in ten Michigan youth who are alive today will die from early from smoking-related diseases;iv, v, vi and

- Tobacco use can cause disease in nearly all organ systems and is responsible for 87% of lung cancer deaths, 79% of all chronic obstructive pulmonary disease deaths, and 32% of coronary heart disease deaths; vii

That every year smoking costs Michigan nearly \$9.4 billion dollars in direct healthcare expenses and lost productivity;

That for the first time in 20 years, the adult smoking rate in Washtenaw County increased, from 12.3% in 2010 to 14.8% in 2015;

That nearly 95 percent of people who smoke start by age 21;

That individuals who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age;

That the younger people start smoking, the greater their risk of many adverse health outcomes, such as hospitalizations and lifetime risk of respiratory disease, chronic obstructive pulmonary disease, and lung cancer;

That tobacco use continues to be a significant public health concern for youth in the City of Ann Arbor, as evidenced by 9.2% of Washtenaw County high school students reporting that they have ever smoked a cigarette;

That curbing tobacco use, particularly for youth, is especially important to the City of Ann Arbor;

That the City of Ann Arbor created smokefree outdoor public places in 2014 in an effort to curb tobacco use among City residents;

That the University of Michigan Ann Arbor has the second largest undergraduate student population in Michigan (over 28,000 students in 2015 - 2016);

That raising the minimum legal age for tobacco sales is important to protect the particularly large population of individuals under the age of 21 in the City of Ann Arbor;

That the majority of youth under age 18 obtain tobacco through social sources as evidenced by:

- 41.4% of Washtenaw County high school students, including 53.7% of 11th graders, report easy access to cigarettes;
- 10.9% of Washtenaw County high school students who smoke usually give someone money to purchase their cigarettes;
- 37.0% of Washtenaw County high school students who smoke usually receive their cigarettes by asking someone they know for them; and
- 17.4% of Washtenaw County high school students who smoke usually get their cigarettes from someone who was 18 years or older;

That the closer youth are to age 18, the easier it is for them to buy tobacco products from retailers as evidenced by:

- The percentage of Washtenaw County high school students who usually buy their cigarettes from stores more than triples between 9th and 11th grade (4.2% of 9th graders usually buy their cigarettes at the store versus 15.6% of 11th graders);

That studies have shown that young adults between ages 18 and 20 are more likely than adults over the age of 21 to purchase tobacco for minors;

That raising the minimum legal age of access reduces the ability for youth under age 18 to appear legally old enough to buy tobacco products and decreases the probability that nonsmoking youth will have social contact and networks that contain smokers;

That the Institute of Medicine found that raising the minimum legal age of access to 21 will likely delay initiation and reduce tobacco prevalence across all ages with the largest proportionate reduction in initiation likely occurring among adolescents of ages 15-17;

That tobacco use continues to be a significant public health concern for young adults as evidenced by the following:

- 13.5% of young adults between the ages of 18 and 24 in Washtenaw County smoke; and
- 18-to-24-year-olds are far more likely to use electronic smoking devices compared to all Washtenaw adults (7.3% versus 4.3%);

That most individuals transition from experimental to regular smoking before age 21;

That tobacco companies target young adults between the ages of 18 to 24 to increase the frequency with which they use tobacco products to encourage them to transition into habitual users;

That research has repeatedly found that raising the minimum age of access is an effective strategy for reducing tobacco use among youth and young adults as evidenced by:

- Research has overwhelmingly demonstrated that minimum legal drinking age laws decreased alcohol consumption rates in the United States, especially among youth and young adults;
- An evaluation of Needham, MA's law raising the minimum tobacco sales age to 21 found that within five years the prevalence of youth smoking reduced by nearly half (12.9% in 2006 versus 6.7% in 2010); and
- The Institute of Medicine found that a nationwide law raising the minimum age of legal access to 21 would save almost a quarter of a million lives of people born between 2000 and 2019;

That smoking disproportionately affects African Americans in Washtenaw County, who are nearly 1.75 times more likely to smoke (25.9% of African Americans smoke versus 14.8% of all Washtenaw adults);

That raising the minimum age of purchase may also address racial and ethnic inequities as communities of color are more likely to begin smoking after age 18;

That as of April 22, 2016, at least 140 jurisdictions in 13 states have laws raising the minimum legal sale age for tobacco products to 21;

That nationally, 70.5% of people, including 57.8% of people who currently smoke, support raising the minimum age of legal access to 21; and

That, the minimum sale age for alcohol in Michigan is 21 years of age, and persons under 21 years of age have visibly different drivers' licenses. Raising the minimum sale age for tobacco would streamline identification checks and would establish a uniform age for the purchase of both products.

The tobacco industry knows that raising minimum age to 21 will hurt sales and worked to roll age back from 21 to 18.

Studies conducted by tobacco companies recognize that if "a man has never smoked by the age of 18, the odds are three-to-one he never will. By the age of 21, the odds are twenty-to-one."

Additionally, studies by tobacco companies have acknowledged that if they don't capture new users by their early 20's, it's unlikely that they ever will.

Specifically, a Philip Morris report concluded, "Raising the legal minimum age for cigarette purchaser to 21 could gut our key young adult market."

Section 2: That Section 9:328 of Chapter 118, of Title IX of the Code of the City of Ann Arbor be renumbered and amended to read as follows: