

ORDINANCE NO. _____

Synopsis: Adoption of this ordinance would prohibit sale or delivery of items used for smoking or electronic cigarette use to persons under age 21.

**AN ORDINANCE AMENDING CHAPTERS 132 AND 138 OF THE
CODE OF ORDINANCES OF THE CITY OF WASHINGTON,
TAZEWELL COUNTY, ILLINOIS, RESPECTIVELY ENTITLED “OFFENSES
AGAINST PERSONS” AND “DRUG CONTROL”, TO PROHIBIT DISTRIBUTION OF
TOBACCO AND SMOKING EQUIPMENT TO PERSONS UNDER 21**

WHEREAS, the City of Washington is a home rule government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Washington may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the use of tobacco products has devastating health and economic consequences; and

WHEREAS, an estimated 5.6 million youth aged 0 to 17 are projected to die prematurely from a tobacco-related illness if tobacco use prevalence rates do not change; and

WHEREAS, national data show that 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use; and

WHEREAS, young people are particularly susceptible to the addictive properties of nicotine as demonstrated by tobacco industry documents showing those who start smoking by the age of 18 are almost twice as likely to become lifetime users as those who start after they turn 21; and

WHEREAS, electronic smoking device use among minors has recently tripled; and

WHEREAS, in 2015, the Institute of Medicine concluded that raising the minimum legal sales age for tobacco products nationwide will reduce tobacco initiation, particularly among adolescents aged 15 to 17, improve health across the lifespan, and save lives; and that raising the minimum legal sales age for tobacco products nationwide to 21 would, over time, lead to a 12 percent decrease in smoking

prevalence; and

WHEREAS, in January, 2018, the National Academies of Sciences, Engineering, and Medicine reported that there is substantial evidence that e-cigarette use by youth and young adults increases their risk of ever using conventional cigarettes and there is conclusive evidence that e-cigarette use increases airborne concentrations of particulate matter and nicotine in indoor environments compared with background levels; and

WHEREAS, the financial impact of tobacco MLSA 21 ordinances on retailers is likely to be minimal, decreasing tobacco sales by only 2%.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, an Illinois home rule municipality, as follows:

Section 1. The foregoing recitals are hereby adopted and incorporated into and made a part of this Ordinance as if fully set forth herein.

Section 2. That subsections 132.07 (A) Sale or Delivery of Tobacco or Electronic Cigarette Products to Minors, 132.07 (B) Purchase of Tobacco or Electronic Cigarette Products by Minors, and 132.07 (F) Definitions, are hereby amended to read as follows:

- (A) Sale or Delivery of Tobacco or Electronic Cigarette Products to Minors. It shall be unlawful for any person to sell, offer for sale, give away, or deliver any tobacco product, electronic cigarette, electronic cigarette product, or alternative nicotine product to any person under the age of ~~eighteen (18)~~ twenty-one (21) years. If any person suspects that a minor is attempting to purchase or obtain any tobacco product, electronic cigarette, electronic cigarette product, or alternative nicotine product, such person shall request and examine identification from the purchaser or acquirer and positively establish the purchaser's or acquirer's age as ~~eighteen (18)~~ twenty-one (21) years or greater before allowing the purchase or delivery of such products to occur.
- (B) Purchase of Tobacco or Electronic Cigarette Products by Minors. It shall be unlawful for any person under the age of eighteen (18) years to purchase any tobacco product, electronic cigarette, electronic cigarette product, or alternative nicotine product, or for any person under the age of twenty-one (21) years to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products, electronic cigarette, electronic cigarette product, or alternative nicotine product.
- (F) Definitions. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them:
 - (1) "Tobacco Products" means and includes any substance containing tobacco leaf, or any product that is made from or derived from tobacco.

and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. The term includes any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco. "Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration as a tobacco cessation product, or as a tobacco dependence product, or for other medicinal purposes.

- (2) "Electronic Cigarette" is a ~~battery-powered~~ device which simulates tobacco or other smoking. It uses a heating device or other mechanism that vaporizes a liquid solution. An "Electronic Cigarette" includes devices known as personal vaporizer or electronic nicotine delivery system. "Electronic cigarette" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration as a tobacco cessation product, or as a tobacco dependence product, or for other medicinal purposes.
- (3) "Electronic Cigarette Product" is a product designed or intended for use with an electronic cigarette, such as atomizers, cartomizers, batteries, bottles, or vaporizing liquid (e-juice).
- (4) "Alternative Nicotine Product" is a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. This does not include tobacco products as that term is defined in this Section or any product approved by the United States Food and Drug Administration as a nontobacco product for sale as a tobacco cessation product, or as a tobacco dependence product, or for other medicinal purposes.

Section 3. That subsections 138.02(B)(3) Sale to minors and 138.02(B)(6) Warning to minors, are hereby amended to read as follows:

- (3) Sale to minors. No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered, or given away tobacco accessories or smoking herbs to any person under ~~18~~ 21 years of age.
- (6) Warning to minors. Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories or smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign upon which there shall be imprinted the following

statement, "SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER ~~EIGHTEEN~~ 21 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW". The sign shall be printed on a white card in red letters at least one-half inch in height.

Section 4. That all ordinances, or parts thereof, in conflict herewith are hereby expressly repealed. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any other provision of this Ordinance.

Section 5. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2018.

AYES

NAYS

Mayor

ATTEST:

City Clerk