

Sponsors: Miyasato, Wein, Potrzuski

POSSIBLE MOTION

I MOVE TO approve Ordinance 2018-24 on
second and final reading.

Notes:

On May 10, the Health Needs and Human Services Commission met and approved the following motion. They respectfully request an amendment be made to change the effective date to August 22, 2018.

M – Herrera / S – Arndt moved to recommend to the Assembly that the implementation date start on August 22, 2018 for Tobacco 21. Motion passed unanimously.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Hunter and Assembly Members
Keith Brady, Municipal Administrator

From: Bob Potrzuski, Benjamin Miyasato, Richard Wein

Date: May 2, 2018

Subject: Approval of Tobacco 21

Tobacco is the number one cause of preventable death in the United States. In Alaska, more people die every year due to direct effects of smoking tobacco than from suicide, motor vehicle crashes, liver disease, homicide, and HIV/AIDS combined. At the current trend 1 in 13 kids in the US will die prematurely from using tobacco.

In addition to the serious health risks related to using tobacco, this pervasive drug contributes to huge economic losses. The healthcare costs in Alaska directly caused by smoking are about \$438 million per year.

Since 2005, over 300 cities have taken an important step to protect their children and communities by raising the Minimum Legal Sales Age (MLSA) of tobacco to 21 years old, an initiative called Tobacco 21 (T21). Most of the tobacco acquired by youth under 18 comes from social sources, and T21 policies have shown to decrease the rates of tobacco use among high school aged students by up to 50%. Reduced access to tobacco products also decreases the chance that youth will ever begin smoking.

Right now, over 80 million Americans across 19 states are covered by Tobacco 21 laws. However, the Minimum Legal Sales Age in Sitka is still 19. A professional poll conducted in October 2017 by the Hays Research Group LLC shows 71.5% of Sitkans support raising the minimum age to buy tobacco from 19 to 21.

In 2016-17, the Health Needs and Human Services commission (HNHS) researched and crafted a Tobacco 21 ordinance. The ordinance to raise the MLSA for all tobacco products is comprehensive and includes e-cigarettes, which are directly marketed towards kids and are becoming more prevalent among youth. After Tobacco 21 was approved by the Assembly as an HNHS goal, the commission held a town hall meeting, solicited public comment, and continued to discuss and refine the ordinance, with input from local, state and national partners.

On January 24th, 2018, the HNHS commission developed an updated and improved Tobacco 21 ordinance. This ordinance is supported and endorsed by national and local groups, including:

- Preventing Tobacco Addiction Foundation
- American Heart Association
- American Lung Association
- SEARHC Board of Directors
- Sitka School District Board

- Youth Advocates of Sitka
- Sitka Community Hospital Foundation Board
- Sitka Health Summit Coalition
- Sitka Counseling
- HOPE Coalition
- City and Borough of Sitka Police and Fire Commission

Tobacco products are highly addictive and contribute to nearly 500,000 deaths a year in the United States. Steps need to be taken to reduce youth access and delay the decision to use tobacco that could otherwise lead to a lifelong addiction. Increasing the MLSA of tobacco to 21 would be consistent with the MLSA of other products in Alaska, like alcohol, marijuana, and handguns.

Every week, another town in the US adopts a Tobacco 21 ordinance. However, no other community in Alaska has taken this vetted step to reduce the well documented burden of tobacco addiction. In the same way that Bethel took the lead in 1998 by passing the first smoke free workplaces policy in the state, Sitka can be the first community in Alaska to support our young people by passing this simple, legal, widely supported, and effective measure.

Thank you for considering this proposal. For more information, please visit www.tobacco21.org.

Bob Potrzuski, Assembly Member
Benjamin Miyasato, Assembly Member
Richard Wein, Assembly Member

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2018-24

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING TITLE 9 “HEALTH AND SANITATION” OF THE SITKA GENERAL CODE BY ADDING A NEW CHAPTER “TOBACCO DISTRIBUTION TO PERSONS UNDER THE AGE OF TWENTY- ONE”

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to increase the legal age of tobacco distribution to the age of twenty-one in the City and Borough of Sitka. This ordinance outlines the intent, policy, and enforcement action.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 9, entitled “Health and Sanitation”, is amended by adding a new Chapter 9.22, entitled “Tobacco Distribution to Persons Under the Age of Twenty-One”, to read as follows (new language underlined):

**Title 9
HEALTH AND SANITATION**

* * *

Chapter 9.22
TOBACCO DISTRIBUTION TO PERSONS UNDER THE AGE OF TWENTY-ONE

Sections:

9.22.010 Definitions.

9.22.020 Prohibition and policy.

9.22.030 Signage.

9.22.040 Enforcement.

92.22.010 Definitions.

A. “Distribute” or “distribution” or “distributing” means to furnish, give, provide, or to attempt to do so, whether gratuitously or for any type of compensation.

B. “Distributor” means a person who distributes a tobacco product.

C. “Electronic smoking device” means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by

the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

D. "Person" means any natural person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation, or any officer, agent, employee, factor, or any other personal representative thereof, in any capacity.

E. "Recipient" means any person who obtains or attempts to obtain a tobacco product.

F. "Tobacco product" means 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. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

G. "Licensed vendor/retailer" means any person, corporation, or business entity that operates a store, stand, booth, concession, or other place at which sales of cigarette or other tobacco products are made to purchase for consumption or use.

9.22.020 Prohibition and policy.

A. The sale or distribution of any tobacco product to a person under the age of twenty-one is prohibited.

B. Before distributing any tobacco product, the distributor shall verify that the recipient is at least twenty-one years of age, through examination of the recipient's government-issued photographic identification.

C. Nothing in this ordinance prohibits an underage person from handling tobacco products in the course of lawful employment and in compliance with State of Alaska statutes and policies.

9.22.030 Signage.

No person shall sell or distribute or permit the sale or distribution of tobacco products in the city and borough unless a clearly visible notice is posted at the location where tobacco products are available for purchase. The notice shall state "No person under the age of 21 may purchase tobacco products," legibly printed in letters at least one-half inch high.

9.22.040 Enforcement.

A. Any licensed vendor/retailer found to have violated the provisions of this chapter shall be charged with a minor offense. The maximum penalty for violation of the provisions of this chapter is one-thousand dollars.

In accordance with AS 29.25.070(a), citations for offenses in this chapter may be disposed of as provided in AS 12.25.175 through 12.25.230, without a court appearance, upon payment of the fine amounts stated herein plus the state surcharge required by AS 12.55.039 and 29.25.074.

Fines must be paid to the city and borough. The Alaska Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses referenced herein. Citations charging these offenses must meet the requirements of Rule 3 of the Alaska Rules of Minor Offense Procedure. For the first offense, the fine shall be three hundred dollars. For the second offense, the fine shall be six hundred dollars. For the third offense and any subsequent offenses, the fine shall be one thousand dollars. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense stated herein. These fines may not be judicially reduced. For purposes of this section, prior offenses must be within the previous five years.

B. Each and every day during any portion of which a violation or failure to comply is committed, permitted, or continued, shall be treated as a separate offense, and subject the offender to separate charges and a fine as provided in subsection A of this section.

5. EFFECTIVE DATE. This ordinance shall become effective October 1, 2018.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 22nd day of May, 2018.

Matthew Hunter, Mayor

ATTEST:

Melissa Henshaw, CMC
Acting Municipal Clerk

1st reading 5/8/18
2nd reading 5/22/18