

Proposed Tobacco Ordinance Public Meetings

March 20, 2023



Tempe
Making waves in the desert

Council Priorities



- **1.21 Youth Alcohol, Marijuana, & Opioid Usage Rate**

Achieve rates of zero for alcohol use and drug misuse by 10th and 12th grade students in Tempe as measured by the biennial Arizona Youth Survey.

- **1.31 Addressing Opioids**

Achieve an end to opioid related deaths and overdoses as measured by the percentage of “opioid abuse probable” Emergency Medical Services calls.



Agenda

- **Introductions of Staff Team**
 - **Mayor & Council Office, Tax & License, Neighborhood Services, Communication & Marketing, Police, Community Development, Attorneys Office**
- **Background & Foundational Documents & Actions**
- **Review Human Services & Community Safety (HSCS) Council Committee recommended Tobacco Ordinance**
 - **Increasing minimum age to purchase product to 21**
 - **Implement licensing & fee program for tobacco vendors**
- **Next Steps**
 - **Public involvement (meetings & online forum) & stakeholder outreach**
 - **Human Services & Council Committee Review: April / May**
 - **City Council Consideration: Spring / Summer**
 - **Public Hearing: 2023**
 - **Implementation**

Background

11/17/21 City Council Work Study Session

Recommendation to research and move forward with considerations for a possible proposed ordinance to establish a Tobacco Sales License in the City of Tempe, to raise the legal age for tobacco sales to 21, and to restrict flavored tobacco and vape products

2/25/22, 5/27/22, 6/24/22 & 12/7/22 Human Services & Community Safety (HSCS) Council Committee Meetings

Council's Human Services & Community Safety (HSCS) Committee holds hearings & public meetings on proposed ordinance

Background (con't)

Summer/Fall 2022

Mayor & Council hold a public forum and two stakeholder meetings, in addition to an online poll via Tempe Forum, to elicit feedback on proposed ordinance

January 2023 HSCS Committee Meeting

Council's Human Services & Community Safety (HSCS) Committee recommends advancing a draft ordinance:

1. Raising the required age for tobacco purchase to 21
2. Establishing a licensing fee and program for tobacco sellers

Family Smoking Prevention and Tobacco Control Act (FSPTCA)

- Signed into law in 2009
- Authorized the Food and Drug Administration to regulate tobacco products, preempting some state and local regulations contrary to the law but saving and preserving from preemption some state and local authority over tobacco—including requirements relating to the sale or distribution of tobacco products
- Amendment to Food, Drug, and Cosmetic Act to raise the federal minimum age for the sale of tobacco products from 18 to 21
- Signed into law in 2019

Arizona Tobacco Laws & Purpose

- Arizona is one of 10 states that does not have a statewide tobacco licensing registry*
- Reasons for tobacco license registry include⁺:
 - Retailers that sell tobacco products must comply with all tobacco laws or risk losing their license to sell tobacco
 - Helps to decrease access to tobacco products, which in turn leads to a decrease in youth prevalence
 - Controls the location and density of tobacco retailers
 - Allows for the imposition of additional restriction on the sale of tobacco products (such as little cigars, flavored tobacco & vape products)

*Source: CDC

⁺Source: Arizona Dept. of Health Services

Local Municipalities

- **Tucson and Flagstaff** have passed retail tobacco licensing ordinances that establish the minimum sales age of 21, as well as impose civil penalties (including license revocation) for violating prohibition against selling tobacco products to minors
- **Cottonwood, Douglass, Goodyear** have passed ordinances raising the age requirement to 21
- **Tobacco product** means:
 - Any product made or derived from tobacco or that contains nicotine, including cigarettes, cigars, chewing tobacco, and liquid nicotine solution
 - Any component, accessory or paraphernalia that used in the consumption of a tobacco product, including vapes

Enforcement of Programs

- Flagstaff*

- Retailers subject to 2 unannounced compliance checks per year
- Engage persons between the ages of 18 and 20 to enter establishment to attempt to purchase tobacco products
- Unannounced compliance checks of all noncompliant retailers required within 3 months of any violation

- Tucson**

- No specific provision for enforcement

- Both Cities have varying fee and violation structures

*Source: Flagstaff C.C. Chapter 7-09

**Source: Tucson C.C. Article XIX

Proposed Tempe Tobacco Ordinance

- Increase minimum age to purchase product to 21
- Implement licensing & fee program for tobacco vendors
 - Annual \$300 fee for vendors
 - Violation fee structure
- Exemption provision of tobacco products for use as part of indigenous practice or a lawfully recognized religious, spiritual or cultural ceremony

Proposed Management of Program

- **City Attorneys Office**
 - Draft ordinance & program guidance
- **Tax & License**
 - Maintains database and licensing of all tobacco vendors
 - Issues fines or license revocations
- **Police Department**
 - Enforcement of age requirement
 - Response-driven & based on complaints
 - Coordinated with Tax & License
 - Possible future partnerships/dialogue with State agencies/Attorney Generals Office
- **Tempe City Council**
 - Monitor data and consider future program modifications

License Fees & Fines Comparison

Municipality	License Fee	“1st Strike” Fee*	“2nd Strike” Fee & Penalty	“3rd Strike” Fee & Penalty	“4th Strike” Fee & Penalty
Tempe ⁺	\$300 Annually	\$500	\$750 License suspended for 7 days	\$1000 License suspended for 30 days	\$1000 License revoked
Tucson	\$300 Annually	\$500	\$750 License suspended for 7 days	\$1000 License suspended for 30 days	\$1000 License revoked
Flagstaff	Set according to separate fee schedule “not to exceed cost of regulatory program”	\$500	\$750 License suspended for 7 days	\$1000 License suspended for 30 days	\$1000 License revoked for a period of 3 years

*All fees and penalties within a 36-month timeframe.

+ Fees and penalties under Tempe’s current proposal include violations of restrictions on the sale of flavored tobacco products

Next Steps

- Public forums on Monday, March 20 (noon, 6pm)
- Online poll on Tempe Forum March 20 – April 3
- Consideration at future HSCS Council Committee (April / May)
- Consideration at future City Council Work Study Session (possibly Spring / Summer)
- Pending Council consensus, post fees to City's website for a period of 60 days as required by state law
- Public Hearings (2) at Regular Council Meetings
- Implementation occurs after department coordination & public hearings
- Observe data and performance of ordinance & possible further action

Questions

- Website: tempe.gov/TobaccoOrdinance