



Board of Supervisors Memorandum

August 6, 2019

**Proposed Changes to Pima County, Arizona Code of Ordinances, to Amend
Chapter 8.04 – Health Provisions Generally and Chapter 8.50 – Smoking, and to
add a New Chapter 8.52 – Tobacco Retail Establishments**

Background

The Pima County Health Department, Tobacco and Chronic Disease Prevention Program (TCDP) supports measures that help prevent nicotine addiction among youth, reduce the number of adult tobacco users and protect the community from harms associated with secondhand smoke and vapor exposure. These efforts are particularly important as we recognize the impact of tobacco products on youth. Currently, 95 percent of adult smokers began smoking before 21 years of age.¹ The increasing popularity of e-cigarettes among youth creates additional concern, as e-cigarette use is strongly associated with the use of other tobacco products (including combustible tobacco) among young adults.²

Between 2017 to 2018, e-cigarette use nationwide has increased from 11.7 percent to 20.8 percent among high school students and from 3.3 percent to 4.9 percent among middle school students.³ The 2018 Arizona Youth Survey estimates that 40.7 percent of Pima County youth in grades 8, 10 and 12 used electronic cigarettes at least once in their lifetime, an increase from 36.4 percent in 2016. Of these youth, 19.7 percent used electronic cigarettes on one or more occasions during the past 30 days, compared to 14.9 percent in 2016.⁴ The 2018 survey shows that 21.2 percent of the Pima County youth surveyed had smoked cigarettes on one or more occasions during their lifetime.⁵

¹ Substance Abuse and Mental Health Services Administration. *National Survey on Drug Use and Health*. 2014.

² US Department of Health and Human Services. *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016. https://www.cdc.gov/tobacco/data_statistics/sgr/e-cigarettes/pdfs/2016_sgr_entire_report_508.pdf

³ Centers for Disease Control and Prevention. *Vital Signs: Tobacco Product Use Among Middle and High School Students — United States, 2011–2018*. 2019. Atlanta: US Department of Health and Human Services, Centers for Disease Control and Prevention. DOI: <http://dx.doi.org/10.15585/mmwr.mm6806e1>

⁴ Arizona Criminal Justice Commission. *2018 Arizona Youth Survey State Report*. http://azcjc.gov/sites/default/files/pubs/AYSReports/2018/2018_Arizona_Youth_Survey_State_Report.pdf

⁵ Ibid.

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The Centers for Disease Control recommends restricting minors' access to tobacco products in combination with stronger local laws directed at retailers, active enforcement of retailer sales laws and retailer education, as best practices for preventing tobacco use among youth.⁶

In August 2018, the Board of Health (BOH) requested that the Board of Supervisors (BOS) consider revising the Pima County, Arizona Code of Ordinances Chapter 8.50 – Smoking, to impose the same restrictions and prohibitions on electronic nicotine delivery systems (e-cigarettes) use as those created through the State's Smoke Free Arizona Program. The BOH further recommended that the BOS raise the minimum age to purchase tobacco products from 18 to 21 and create a retail permit system that includes enforcement and regular inspection of tobacco retailers in unincorporated Pima County. The BOH action was contemporaneous with a Tucson City Council study session on August 8, 2018 that concluded with direction to the City Manager to develop legal framework related to raise the minimum age to purchase tobacco and related products, and explore a delegation of enforcement to Pima County.

The Health Department requested and received approval from the County Administrator in December 2018 to convene a series of community stakeholder meetings to review the BOH proposed ordinance changes, elicit stakeholder feedback and incorporate input into a proposed ordinance for consideration by the BOS.

Discussion

Community Stakeholder Meetings

Twelve community stakeholder meetings occurred from February 8, 2019 to March 4, 2019 to discuss proposed tobacco ordinance changes and specifically, the three key elements proposed by the BOH:

1. Raise the minimum legal age to purchase tobacco products from age 18 to 21 years old;
2. Create a retail permit system for tobacco retailers in unincorporated Pima County; and,
3. Amend language of the current ordinance to include electronic nicotine delivery systems (electronic cigarettes).

The Health Department hosted one-hour meetings in each of the five BOS Districts including metro and rural locations. Staff sent meeting invitations to representatives of the vaping industry, retailers and convenience store operators, health-related and non-profit organizations. The information was also shared with City of Tucson staff and BOS staff,

⁶ Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs—2014*. Atlanta: US Department of Health and Human Services, Centers for Disease Control and Prevention. 2014.

https://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf

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and on the Health Department Facebook page and Healthy Pima website. The meetings included a welcome and introduction, overview of the proposed ordinance changes and time for stakeholder feedback. Community members also had the opportunity to submit feedback online via the Health Department webpage, or the HDCommunicate email.

In total, 89 individuals attended 12 meetings, with representation from 21 organizations. Additionally, of 41 responses provided through online feedback mechanisms (21 responses were in favor of moving forward with the proposed changes and 20 were not.) Letters of support from the Professional Fire Fighters of Arizona, as well as a joint letter from the American Cancer Society Cancer Action Network, American Lung Association, American Heart Association, Americans for Nonsmoker's Rights and Campaign for Tobacco Free Kids, are provided for the record. As are 1,368 signatures in opposition to the proposed change provided in the form of a petition from the operators.

The following suggestions emerged from the stakeholder feedback process and have been incorporated into the proposed ordinance language:

- **Age restrictions:** Individuals, 18 to 21 years old at the time of ordinance adoption, are exempted. These grandfathered individuals may continue to purchase any tobacco related product. Individuals under 18 however, would not be able to make such purchases until they were 21.
- **Exemption for indoor vaping at vaping retail establishments:** Age appropriate customers of vape shops should have the ability to sample product in such establishments at the owner's discretion. This is currently the case with combustible tobacco products. This change provides parity among retailers and allows customers to try the products before purchasing.

A full summary of community stakeholder input may be found in the attached Community Stakeholder Feedback Summary (Attachment 1).

American Heart Association Polling

The American Heart Association joined with CityHealth, an initiative of the de Beaumont Foundation and Kaiser Permanente, to commission a survey in Pima and Maricopa counties. OH Predictive Insights polled likely voters from March 8 to 11, 2019. The survey looked at both the City of Tucson and Pima County to determine respondent attitudes about increasing the legal smoking age from 18. A representative sample of likely voters produced 402 completed surveys from the City of Tucson residents and 401 from Pima County.

When asked about both combustible tobacco and electronic cigarette products, 64 percent of Pima County residents favored an increased purchase age, 29 percent opposed. Among Tucson voters the margin of approval was even higher, with 68 percent in favor compared to 28 percent opposed (see Table 1 below). In general, the proposed increase in age to

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purchase was supported across demographic groups. In particular, 70 percent of Pima County female respondents and 75 percent of female City of Tucson respondents were in favor of raising the age. This was also true for men, 50 percent in Pima County supported increasing the age to purchase, compared to 61 percent in the City of Tucson.

Table 1: Raising the Legal Smoking Age: By Jurisdiction

	Pima County	City of Tucson
In favor of raising the age	64 percent	68 percent
Oppose raising the age	29 percent	28 percent
No opinion	7 percent	4 percent

Proposed Implementation Plan

Health Department staff have worked in partnership with the City of Tucson to gather community feedback and solicit legal input from both the County and City attorneys to prepare revisions to Chapters 8.50 and 8.04 and draft a new Chapter 8.52 – Tobacco Retail Establishments. Proposed updates add language pertaining to electronic nicotine delivery systems, raise the minimum legal sales age for tobacco products to 21, and create a tobacco retail permit for unincorporated Pima County.

Discussions are ongoing with City of Tucson staff to discuss permitting and outline enforcement responsibilities. These conversations have resulted in the development of a proposed implementation timeline (Attachment 2) and proposed budget (Attachment 3). Key elements of a future intergovernmental agreement will include the following:

1. The City of Tucson intends to delegate the enforcement of its tobacco ordinance to Pima County, with an effective date of January 1, 2020.
2. Under such an agreement, Pima County will issue tobacco permits for both the City of Tucson and Pima County. This ensures the entity issuing permits is also responsible for enforcement, eliminates the need for data sharing across systems and provides uniformity of both permitting and enforcement across the two entities.
3. Pima County would assume responsibility for conducting all enforcement activities inclusive of retailer site visits, compliance checks and responding to complaints.
4. The revenue generated from permit fees will offset enforcement costs.
5. An Ordinance establishing the exact amount of the fee associated with the tobacco retail permit will be brought to the Board of Supervisors for consideration.
6. The legal jurisdiction for enforcement will be in a Pima County Court.

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Recommendation

The proposed revisions to Chapters 8.50 and 8.04 and the new Chapter 8.52 – Tobacco Retail Establishments are responsive to the intent of the Board of Health to curb youth tobacco use. The changes take into account community feedback and mirror the proposed changes in the City of Tucson. Third party polling indicates strong levels of support among Pima County voters to raise the minimum legal sales age to purchase tobacco from 18 to 21.

Staff recommends Board approval of the submitted modifications to Chapters 8.50 and 8.04 and the new Chapter 8.52 – Tobacco Retail Establishments.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/lab – July 16, 2019

Attachments

c: Jan Leshar, Chief Deputy County Administrator
Francisco Garcia, Assistant County Administrator for Community and Health Services
Bob England, Interim Director, Health Department
Rebecca O'Brien, Tobacco Program Manager
Jonathan Pinkney, Pima County Attorney

ORDINANCE 2019-_____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE REGULATION OF TOBACCO RETAIL SALES AND SMOKING; AMENDING THE PIMA COUNTY CODE BY AMENDING CHAPTERS 8.04 AND 8.50 AND ADDING A NEW CHAPTER 8.52

The Board of Supervisors of Pima County, Arizona finds that:

1. The Board of Supervisors of Pima County, Arizona, has authority under A.R.S. §§ 11-251(17) and 36-136(J) 36-186 et seq to adopt provisions necessary to preserve the health of the county and provide for the expenses thereof, and under A.R.S. § 11-251.05(A)(2) to prescribe penalties for violation of an ordinance.
2. It is in the public interest to protect youth and young adults from the health risks associated with tobacco use by encouraging responsible retailing of all tobacco products, increasing the minimum legal sales age to 21, and ensuring provisions for assurance, compliance and ongoing tobacco prevention education for the community.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. Pima County Code Section 8.04.110 is amended by adding "Tobacco retail establishments" to the list of establishments requiring an operating permit, as follows:

8.04.110 - Operating permit required.

...

G. An operating permit is required for the following:

...

9. Tobacco retail establishments.

SECTION 2. The Pima County Code is amended by adding a new Chapter 8.52 as follows:

**Chapter 8.52
TOBACCO RETAIL ESTABLISHMENTS**

8.52.010 Definitions

- A. "Electronic smoking device" means a device that can be used to deliver aerosolized or vaporized nicotine to a person who inhales from the device, including an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah, and any component, part, or accessory of such a device, whether or not sold separately.
- B. "Operating permit" means a permit required for operating a tobacco retail establishment under section 8.04.110(G)(9) of this code.
- C. "Tobacco product" means:
 - 1. any product made or derived from tobacco or that contains nicotine 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 cigarettes, cigars, pipe tobacco, chewing tobacco, shisha, snuff, snus, and liquid nicotine solution; and
 - 2. any component, accessory, instrument, or paraphernalia that is used in the consumption of a tobacco product or that is solely designed for the smoking or ingesting of tobacco or shisha, including a hookah, water pipe, filter, rolling papers, pipe, or electronic smoking device; except that
 - 3. the term "tobacco product" does not include drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- D. "Tobacco retailer" means an individual engaged in selling, furnishing, giving, or providing tobacco products directly to consumers either on their own behalf or on behalf of a dealer, distributor, supervisor or employer.
- E. "Tobacco retail establishment" means an entity that sells tobacco products directly to consumers.

8.52.020 Tobacco retailing – Generally

- A. No person may sell, furnish, give, or provide tobacco products directly to consumers except on the premises of a tobacco retail establishment with a valid operating permit.

- B. It is the responsibility of the owner or operator of each tobacco retail establishment to be informed of all laws applicable to tobacco retailing, including those laws affecting the issuance of an operating permit, and to provide appropriate training to any persons who interact with customers on its premises. The issuance of an operating permit is not a determination by the county or the department that the tobacco retail establishment has complied with any laws applicable to tobacco retailing.
- C. During any period that it lacks a valid operating permit, a tobacco retail establishment must:
 - 1. Not sell, furnish, give, or provide any tobacco product to consumers.
 - 2. Remove all tobacco products from the relevant tobacco retail establishment's retail area.
 - 3. Remove the operating permit from public view.
 - 4. Display signage, provided by the department, in a conspicuous manner visible to the general public and within a 5 foot radius of any tobacco product point of sale area, indicating that the tobacco retailer does not possess a current permit to sell tobacco products. If multiple tobacco product point of sale areas exist in a single tobacco retail establishment, such signage must be displayed in each area.
 - 5. Remove all tobacco advertising that is not permanently affixed to the tobacco retail establishment's structure.
- D. It is a violation of this chapter for any tobacco retail establishment or for any tobacco retailer on its premises to violate any local or state law applicable to tobacco products or tobacco retailing.

8.52.030 Accessibility of tobacco products

- A. All tobacco products at any tobacco retail establishment to which persons under twenty one years old are permitted entry must be maintained:
 - 1. Behind a counter in an area accessible only to employees of the tobacco retail establishment; or
 - 2. In a locked container accessible only to employees of the tobacco retail establishment; or
 - 3. Otherwise out of physical reach of any consumer and only accessible to employees of the tobacco retail establishment.

8.52.040 Minimum legal sales age for tobacco products

- A. No tobacco retailer may sell, furnish, give, or provide any tobacco product to any person under the age of 21, unless the person was 18 years old before January 1, 2020.
- B. Before selling, furnishing, giving, or providing a tobacco product to any person who appears to be under the age of 30, a tobacco retailer must examine an approved form of identification and verify that the person is at least 21 years of age or is

exempted under subsection (A).

- C. For the purposes of this section, the following forms of identification, if valid, unexpired, and including a picture of the person and the person's date of birth, are approved for age verification:
1. A driver license or nonoperating identification card issued by any state or territory of the United States or Canada;
 2. A United States Armed Forces identification card;
 3. A passport;
 4. A resident alien card.

8.52.050 Signage

- A. A tobacco retail establishment must post a clearly visible sign stating "No tobacco products or electronic smoking devices will be sold to persons under the age of 21" at every location where such products are available for purchase.
- B. The department will provide signs at the time of the operating permit approval or renewal, or upon request.
- C. Signs must be no smaller than 4 inches by 6 inches, and include the appropriate department website and phone number.
- D. Failure to comply with this section is a violation under section 8.52.060 only after the tobacco retail establishment has failed to correct any deficiency at the department's request.

8.52.060 Violation—Penalty.

- A. A person violating any provision in this chapter is subject to the penalties prescribed in Chapter 8.04 of this code.
- B. If any court of competent jurisdiction determines, or the department finds, that a tobacco retail establishment with a valid operating permit, or any of its agents or employees, has violated a local, state, or federal law regulating tobacco sales or does not comply with this chapter, the following penalties also apply:
1. For a first violation at a tobacco retail establishment, the department will issue the tobacco retailer with a written notice of violation requiring the retailer, and the owner, operator, or manager of that retail establishment, as determined by the health officer, to complete a mandatory education course.
 2. For a second violation at a tobacco retail establishment within 36 months of a first violation, the department will assess a fine of \$600 and suspend the operating permit for that establishment for 30 days.
 3. For a third violation at a tobacco retail establishment within 36 months of a first violation, the department will assess a fine of \$1000 and suspend the operating

- permit for that establishment for six months.
4. Any such tobacco retail establishment found in violation will also be assessed a fine for a reinspection that the department will conduct within three months of the violation.
- C. If any court of competent jurisdiction determines, or the department finds, that a tobacco retail establishment operating without a valid operating permit or any of its agents or employees, has violated a local or state law regulating tobacco sales or does not comply with this chapter, the following penalties also apply:
1. For the first violation within a 36-month period, the department will assess a fine of \$1000.
 2. For a second violation within a 36-month period, the department will assess a fine of \$1500 and the tobacco retail establishment will be ineligible to apply for an operating permit for six months.
 3. For each additional violation within a 36-month period, the department will assess a fine of \$2500.
 4. Any tobacco retail establishment operating without a valid operating permit must also comply with section 8.52.020(D) of this chapter.
- D. Multiple violations of this chapter, or of any other local or state law applicable to tobacco products or tobacco retailing, identified during a single inspection are counted as a single violation with respect to penalties imposed under this chapter.
- E. All applicable fees must be paid before an operating permit is issued or renewed.
- F. A tobacco retail establishment may appeal the penalties in this section by submitting a request for appeal under section 8.04.130 of this code.

8.52.070 Applicability of Other Laws

The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity. Nothing in this chapter prohibits the prosecution of criminal offenses under any applicable law. The department may enforce this chapter in a civil action, including administrative or judicial proceedings, civil code enforcement proceedings, and suits for injunctive relief.

SECTION 3. Pima County Code Section 8.50.010 is amended by amending the definition of "Smoking," as follows:

8.50.010 - Definitions.

In this chapter:

...

6. "Smoking" means carrying or inhaling from any lighted tobacco product or activated

electronic smoking device.

SECTION 4. Pima County Code Section 8.50.030 is amended as follows:

8.50.030 - Exemptions.

A. The following places or circumstances are exempt from the provisions of this chapter:

...

5. Retail tobacco stores, including stores that primarily sell electronic smoking devices.

SECTION 5. This Ordinance is effective 30 days after the date of adoption, with the exception of sections 8.52.020 and 8.52.060 which take effect January 1, 2020.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this
_____ day of _____, 2019.

Chairman, Board of Supervisors

Date

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Deputy County Attorney

ATTACHMENT 1



Proposed Changes to Pima County Ordinance
Chapter 8.5 – Smoking

Community Stakeholder Meetings

February 8, 2019-March 4, 2019

Feedback Summary

Background

In 2015, the Pima County Board of Health (BOH) approved the development of a tobacco-licensing regime that was designed to identify tobacco retail establishments, restrict the location of tobacco vendors, and enhance compliance activities with the end goal of preventing sales to minors. The approach was developed by a local coalition spearheaded by the American Lung Association and the American Cancer Society. The strategy was vetted by a variety of stakeholders including the Tucson Metro Chamber of Commerce and the Metropolitan Pima Alliance. Concerns articulated by retailers and commercial real estate development entities within the community resulted in the Health Department reassessing the strategy.

The BOH requested that the Board of Supervisors (BOS) consider revising the Pima County Ordinance Chapter 8.5 – Smoking in 2018, to impose the same restrictions and prohibitions on electronic nicotine delivery systems (e-cigarettes) use and retail, as those created through the state’s Smoke Free Arizona Program. The BOH further recommended that the BOS raise the minimum age to purchase tobacco products from eighteen to twenty-one and create a retail permit system that includes enforcement and regular inspection of tobacco retailers in unincorporated Pima County. The BOH was contemporaneous with a Tucson City Council study session on August 8, 2018 that concluded with direction to the City Manager to develop legal framework related to raise the minimum age to purchase tobacco and related products and explore a delegation of enforcement to Pima County.

The Health Department requested and received approval from the County Administrator in December 2018 to convene a series of community based stakeholder meetings to review the proposed ordinance changes, elicit feedback, and incorporate input into the final ordinance language for presentation to the BOS.

Meetings

A total of 12 community stakeholder meetings were held to discuss proposed tobacco ordinance changes. The three changes discussed were:

1. Raise the minimum legal age to purchase tobacco products from 18-21 years old;
2. Create a retail permit system for tobacco retailers in unincorporated Pima County; and
3. Amend language to the current smoking ordinance to include electronic nicotine delivery systems

Meetings were held in each of the five Board of Supervisor’s districts including metro and rural locations. Meetings were scheduled for one hour and were facilitated by staff from the Health

Department. The meetings included an overview of the proposed ordinance changes, review of the meeting objectives, and time for stakeholders to provide feedback on the proposed ordinance changes. Comments, questions, or concerns could also be submitted online via the feedback form on the Health Department webpage, or through the HDCommunicate e-mail. All communications submitted in either of these mediums were forwarded to Health Department staff.

Staff sent meeting invitations to representatives of the vaping industry, retailers and convenience store operators, and health-related and non-profit organizations. The information was also shared with City of Tucson staff, Board of Supervisors staff, and on the Health Department's Facebook page and Healthy Pima website. A press release was sent to media partners on February 22nd to highlight the remaining meetings. Two television interviews were conducted at the February 25th community stakeholder meeting with KGUN and KOLD, and a third was conducted with KVOA on February 27th. An article was published on Arizona Public Media on February 20th and a radio interview was held on February 27th with 1030 KVOI the Voice. The purpose of the interviews were to encourage attendance at the meetings and highlight the proposed tobacco ordinance changes. The table below shows the meeting dates, locations, Board of Supervisor District, number of attendees, and the organizations represented at each meeting.

Date	Location	County District	# of Attendees	Organizations Represented
2/8/19	Eckstrom Columbus Library	2	11	<ul style="list-style-type: none"> • City of Tucson (1) • Arizona Smoke Free Alliance (3) • Double Tap Vapor, LLC (1) • Cloud Slingers (2) • Old Pueblo Vapor (3) • Board of Health (1)
2/12/19	Kirk-Bear Canyon Library	4	6	<ul style="list-style-type: none"> • City of Tucson-Ward 3 (1) • Arizona Smoke Free Alliance (1) • Double Tap Vapor, LLC (1) • Cloud Slingers (1) • Old Pueblo Vapor (1) • Vapor Pros (1)
2/15/19	Martha Cooper Library	5	5	<ul style="list-style-type: none"> • Board of Health (1) • UA Alvernon Family Medicine (1) • City of Tucson (1) • City of Tucson-Ward 3 (1)

				<ul style="list-style-type: none"> • Preventing Tobacco Addiction Foundation (1)
2/19/19	Mission Library	5	5	<ul style="list-style-type: none"> • American Heart Association (1) • City of Tucson-Ward 3 (1) • Arizona Smoke Free Alliance (2) • Arizona Public Media (1)
2/19/19	Santa Rosa Library	2	9	<ul style="list-style-type: none"> • Community member (1) • Arizona Smoke Free Alliance (1) • Double Tap Vapor, LLC (1) • Cloud Slingers (3) • Old Pueblo Vapor (1) • Vapor Pros (1) • City of Tucson-Ward 3 (1)
2/25/19	Oro Valley Public Library	1	3	<ul style="list-style-type: none"> • Board of Health (1) • American Cancer Society Cancer Action Network (1) • City of Tucson-Ward 3 (1)
2/26/19	Flowing Wells Library	3	12	<ul style="list-style-type: none"> • American Heart Association (1) • Student (1) • Community member (2) • City of Tucson-Ward 3 (1) • Board of Health (1) • American Cancer Society Cancer Action Network (2) • Monsoon Vapors (2) • Tucson Metro Chamber (1) • PCHD (1)
2/27/19	Caviglia-Arivaca Library	3	0	NA
2/28/19	Quincie Douglas Library	2	13	<ul style="list-style-type: none"> • Arizonans Concerned About Smoking (1) • American Cancer Society Cancer Action Network (2) • City of Tucson (4) • PCHD (3) • Davis-Monthan AFB (2) • Community member (1)
2/28/19	Joyner-Green Valley Library	4	3	<ul style="list-style-type: none"> • Arizonans Concerned About Smoking (1) • Anza Trail SWAT (2)

3/1/19	Dewhirst-Catalina Library	1	4	<ul style="list-style-type: none"> • Southwest Smokeless (2) • Board of Health (1) • Monsoon Vapors (1)
3/4/19	Abrams Public Health Center	2	18	<ul style="list-style-type: none"> • Empire High School (5) • City of Tucson-Ward 3 (1) • Community member (2) • Freelancer (1) • Vapor pros (1) • Old Pueblo Vapor (2) • Truth Campaign (1) • City of Tucson (1) • Arizona Smoke Free Alliance (2) • Double Tap Vapor (1) • Board of Health (1)

Note: this includes all attendees who were *not* facilitating the meetings

In total, 89 attendees were recorded over the course of the 12 meetings. 21 different organizations were represented, with the City of Tucson, Arizonan Smoke Free Alliance, Double Tap Vapor, Cloud Slingers, Old Pueblo Vapor, Board of Health, City of Tucson Ward 3, Vapor Pros, American Cancer Society Cancer Action Network, Monsoon Vapors, and Arizonans Concerned about Smoking coming to two or more meetings.

Online Feedback

Online feedback was accepted via the feedback form on the Health Department website or through e-mails sent to HDCommunicate. Responses were collected from February 8th through March 8th. 41 responses were received online; 21 responses were in favor of moving forward with the proposed changes and 20 were not. It should be noted that the online feedback form did not include a specific space to indicate if someone was affiliated with a group or organization. As a result, the following four organizations were the only groups explicitly identified through the online comments.

- Arizona Public Health Association
- American Heart Association
- Superintendent's office of Amphitheater Unified School District
- Vapor Pros

Feedback Themes

The tables below depict reoccurring themes derived from all comments made during the in-person meetings and through online feedback (for the complete list of comments submitted online, see Appendix A). The feedback is broken down into comments made against the proposed changes, for the proposed changes, and general comments/questions.

Themes <u>against</u> the proposed changes
Statistics on vaping indicate there is no cause for concern
Vaping helps people quit smoking traditional cigarettes and saves lives/improves health
If you can fight for your country, you should be able to use tobacco products
Smoking is an individual decision and not something the government should be involved with
It is troubling that youth are using vaping products, but raising the age to 21 wouldn't help; it would drive 18-21 year olds to traditional cigarettes
There's no punishment for straw buyers (individuals who are of legal age to purchase tobacco products and provide them to minors)
Doesn't address active-duty military, many of whom are 18-21 years old and vape. If vaping products are taken away, they will be forced to go back to tobacco
Adult only facilities (18 and over), like vape shops, should stay 18. Other retailers like gas stations should be 21 due to the fact that youth are getting their products from these locations, not vape shops
Economic ramifications will affect local businesses
The purpose of vape shops isn't to hook kids, but rather to help people quit smoking
People will go to another jurisdiction (such as Marana, Oro Valley, or stores located on reservations) to purchase tobacco products
When you turn 18 you shouldn't lose the option to quit smoking cigarettes. Removing the choice to vape will drive people to cigarettes
Science shows no harm in exhaled vapor in public spaces
Enforce the laws that are already in place before increasing the age to 21
Vaping is not the same as tobacco and they shouldn't be lumped together
The age to purchase alcohol is 21 and kids in high school have someone who buys for them. That won't change for tobacco if the age is increased
JUULs are the biggest problem-kids are getting buzz from these types of products not the types of products sold in vape shops
Youth can always buy products online
The proposed ordinance wouldn't fix the issue of theft in stores
Vape shops have never tried to target minors and don't want kids getting ahold of their products
Being able to vape indoors and try the products is part of the vape shop business
Vaping is a form of harm reduction
T21 almost put vape shops in Cottonwood out of business
Increasing the regulations and penalties for those who sell to minors would be more effective

This should be done at the State level rather than within each jurisdiction because it's hard to maintain consistency

Have no issue with the permit fees (vape shops) but are against raising the age to purchase

If the age is changed, consider a step up implementation plan or grandfather in those already 18 years of age

Themes for the proposed changes

A large body of evidence shows that nicotine has detrimental and permanent effects on the developing brain

The licensing fee will help eliminate "bad actors"

18-20 year olds are selling to younger kids and getting them hooked on vaping

Increasing the age may not stop youth from using tobacco products, but it delays the decision making process and creates a barrier

Nicotine is addictive no matter what form it's in

What kids are buying is not important. Raising the age is the big picture

There is increased use and availability of vaping products in schools

Students are getting vaping products from older students at school. Increasing the age would eliminate these students from their social circle

Many long-term smokers start before the age of 21

This intervention would be effective in reducing the number of nicotine addicted adults, improve health outcomes, and reduce healthcare costs long-term

Anyone under 21 is not mature enough to make long-term decisions about their health

Youth who are exposed to nicotine in any form are more likely to become addicted and lifelong tobacco users

The vast majority of Pima County residents do NOT smoke, vape or use other forms of tobacco

Other jurisdictions have successfully implemented these policies

Tobacco use contributes to many health problems, including heart disease and stroke

Davis-Monthan Air Force Base has a program in place that focuses on wellness and tobacco prevention, including working on tobacco-free spaces (the Base is not tobacco free)

Enforcement included in the ordinance gives the policy strength and makes Pima County a leader since the other two jurisdictions who enacted tobacco 21 are not doing enforcement

Happy youth are not being penalized

General Comments/Questions

Tucson Chamber of Commerce (TCC) has been monitoring the issue and does not have a position one way or the other. Would have concerns if the proposed ordinance had a dramatic effect on revenues, as it is their job to protect small business owners. General concern is the issue of theft and TCC will be looking at trends to see if theft increases.

Should fine the purchaser as well

Need to educate on the effects of JUULs, nicotine, and vaping

The number of kids in STAND is a small representation of youth throughout community
Are there any statistics on the effects of vaping?
Pima County's indoor air ordinance is not up to standard with State code. Need to add e-cigarettes in.
Military is shifting to tobacco fee entry
Vape products should be taxed like tobacco products
Frustrated with health disparities and the number of smoke shops in low income areas
Cannot believe that there is no oversight of vape shops
Are vaping products that contain no nicotine covered under the proposed ordinance?
Have there been any studies done related to the projected loss of revenue?

Suggestions for Ordinance Changes

The following table includes suggested changes for amending the language in the proposed ordinance. The section that would be changed according to the suggestion is included.

Suggestions for Changes to the Ordinance Language	Ordinance Section
Add language that would state the permit fee will not exceed the cost to issue permits and conduct enforcement	Page 2, Section 8.04.110 Operating permit required - item H
Ensure future iterations of ENDS products are included in the ordinance language	Page 3, Section 8.52.10 Definitions - item C 1-3
Having the same permit fee across the board doesn't seem fair. Circle K is not a small business so their permit fee should be more	Page 2, Section 8.04.110 Operating permit required - item H 1
Freeze the buy-date for three years so 18 year olds wouldn't be affected (i.e. if someone is 18 the day the ordinance passes they should be able to keep purchasing tobacco products)	Page 4, Section 8.52.040 Minimum legal sales age for tobacco - item A
Indicate what size the text has to be for signage	Page 5, Section 8.52.050 Signage- item A
Add in language related to re-inspection for those out of compliance	Page 5, Section 8.52.060 Violation-Penalty
Make the "look-back" period 36 months to align with other national organizations	Page 5, Section 8.52.060 Violation-Penalty-item B
Define the criteria for assessing fines	Page 6, Section 8.52.060 Violation-Penalty
Make sure language related to permit vs. license is consistent throughout the document. Permit is the recommended language	Throughout the Document

Remove item B - no person younger than twenty one years of age may sell or dispose of tobacco products or electronic smoking devices	Page 3, Section 8.52.10 Definitions - item B
Add the word “closed” in front of electronic nicotine device to make ordinance specific to closed devices (JUULs) vs. open devices (other vape products)	Page 3, Section 8.52.10 Definitions - item C
Update the definition of tobacco products to mirror SB1009	Page 3, Section 8.52.10 Tobacco Retailing - item B

Additional Information Provided

Letters of Support

A joint letter of support from the American Cancer Society Cancer Action Network, American Lung Association, American Heart Association, Americans for Nonsmoker’s Rights, and Campaign for Tobacco Free Kids was provided during a stakeholder meeting. The letter (see Appendix B) outlines the group’s strong support, in Pima County and the City of Tucson, to raise the minimum legal sales age for tobacco products to 21. The Professional Fire Fighters of Arizona submitted a letter (Appendix C) outlining their support for the proposed ordinance, particularly due to the number of tobacco-related conditions they treat as paramedics and fire fighters. The American Cancer Society also included their position statement on electronic cigarettes (see Appendix D). The statement includes a scientific summary of available evidence on electronic cigarettes, clinical recommendations, and policy recommendations which includes raising the minimum legal sales age to purchase tobacco products.

Ordinance Objection Signatures

Lists of signatures (see hard copies) were provided by representatives of vape shops at several community stakeholder meetings. The signatures indicate (as written on the petition form) that signees believe in open access to vapor products for adults and are proponents of the harm-reduction potential of vapor products. As a result, the signees believe the proposed Pima County changes violate the rights of citizens and business owners and raising the age to purchase tobacco products will harm young adults and increase crime. 1,368 signatures were provided to Health Department staff.

Conclusion

The majority of feedback received during the community stakeholder meetings was from representatives of the vaping industry. These individuals strongly oppose raising the minimum

sales age to 21 largely because they feel youth are not using the products typically sold in vape shops; the products sold in vape shops are devices customers feel have helped them quit smoking cigarettes. There was opposition related to the inclusion of electronic nicotine devices in the existing Smoke Free Arizona law, specifically as it pertains to sampling of these products in vape shops. Operators of these establishments contend these businesses decisions should be left to them and that sampling products is an integral part of their service. Concerns from convenience store operators were largely about the operational costs to the retailer for implementing the age restriction only within Pima County and the City of Tucson, and the disproportionate impact it would have on sales. They also cited the lack of enforcement related to tobacco theft and the long term investment they have already made in training their staff to address issues posed in this ordinance. It is important to note that vape shop owners were supportive of keeping tobacco products out of the hands of minors.

Those in favor of the proposed changes largely came from representatives of non-profits, like the American Cancer Society and American Heart Association. Community members, including parents and teachers, also expressed support. The primary themes in favor of the proposed changes centered on the long-term impact of nicotine addiction, the harmful health effects of tobacco products, and the need to create barriers for youth gaining access to these products via their social network. Raising the minimum legal sales age would help remove individuals who can legally purchase tobacco products from younger student's social circles.

The online feedback option provided an opportunity for individuals to provide comments who were unable to attend the community stakeholder meetings. Comments provided through this medium were evenly divided among individuals who were in favor and against the proposed changes. The online feedback comments also mirrored those made during the in-person meetings.

The following suggestions emerged from stakeholder feedback:

- **Step-up age restrictions:** Individuals who are 18-21 years old at the time of ordinance adoption, should be exempt. These grandfathered individuals may continue to purchase all tobacco related products. Individuals who are under 18, however, would not be able to make such purchases until they are 21.
- **Exemption for indoor vaping at vaping retail establishments:** Customers of vape shops should continue to be able to vape indoors at the owner's discretion, as is currently the case with individuals being allowed to smoke on the premises of smoke shops. This will allow customers to try the products before purchasing.

Appendix

Appendix A: Online Feedback (the content of the comments has not been edited or changed).
The comments are grouped by whether they are for or against the proposed changes.

Online Feedback Comments **Against** the Proposed Changes

Do NOT ban vaping in public places and/or raise the age to legally vape! I am an AMERICAN, and I do NOT approve of this crap! Comprenda? You have no legal authority to tell free Americans what to do with their lives! STAY OUT OF MY LIFE! Capiche?

Hi, my name is Josh and I am one of the owners of Vapor Pros, here in Pima County. I am writing to urge you to reconsider banning the use of e-cigs indoors as it doesn't make sense from a public health or scientific perspective. Banning vaping indoors sends the message to smokers that vaping is as dangerous as burning combustible tobacco, which is just not true. I have personally helped thousands of people make the switch to vaping from smoking and with the false and negative reports on vaping being so widely spread by the media, (whose interests are not the public health, but the highest bidder) I urge you to be a voice of reason. Please leave it to the business owners to decide how they want to operate their business when it comes to this issue

E-cigarettes SAVE Lives-they they don't take take lives!!! Is your goal to save people or to control and condemn them?!!!! The VENERABLE British Royal Academy of Physicians say the Total risk is 1-5 percent of tobacco and harmless to everyone else. You would do the public a better service banning energy drinks .

P.S.- E-cigarettes are NOT a gateway to tobacco-and exact opposite! However, you're in favor of legalizing marijuana which is a dangerous gateway drug with brain altering chemicals and fifty times more carcinogens than tobacco.

As a concerned citizen I felt it necessary to write to you and share my concerns regarding the proposed vaping legislature. I personally smoked for over 20 years and failed to stop smoking using conventional smoking cessation products. E-cigarettes made it much easier for me to stop smoking cigarettes and I have realized immense personal health benefits from such.

A critical component of adopting vaping for me personally was the immense support groups available to e-cigarette users at vape shops and events that used to be held for vapers. I believe that the social interaction and help that users give each other in this setting provides new positive associations with e-cigarette use which make it easier for a smoker to adopt as a substitute for a serious existing addiction to smoking cigarettes.

If vaping were to be banned indoors this would seriously diminish the quality of experience available to existing e-cigarette users as well as smokers who are curious about transitioning. Furthermore there is no solid science I am aware of documenting any significant health risks associated with exposure to second hand e-cigarette vapor. I am however aware of many studies which were clearly biased in nature or extremely negligent in the procurement of the methods used leading to wildly inaccurate and misleading results.

I firmly believe that businesses should be able to decide their own policy regarding e-cigarette use indoors as patrons always have the freedom of not soliciting any given business with practices they don't agree with.

I am also opposed to the proposal which aims to make the minimum age to purchase tobacco or vaping products 21 years old. I feel at the very least there needs to be some accommodation for users which have already been permitted to purchase these products. Cigarettes are very addictive,

allowing an end user to indulge in these products and then taking that away seems shortsighted and unfair to me.

Thank you for taking my views into consideration. Please feel free to respond with any questions or concerns regarding anything discussed here.

I am writing you to voice my concerns to your intentions to pass the ordinance that would raise the age to buy tobacco and vape products to 21.

First let me tell you that i was a smoker for 27 years. For the last 20 of those years i was a two pack a day smoker. 7 years ago I discovered vape after many attempts to quit smoking with no success. Since the first day of purchasing a vapor device i have been smoke free for over 7 years now. This was a life changer for me. My health has improved tremendously. And I owe it all to vaping. Today I write this letter to ask you to not put vaping and smoking into the same category. Instead I ask you to follow the science, and not the misdirected political pressure and recognize that vaping and smoking are NOT THE SAME. And need to be treated as two distinct products. Not group into the same restrictions without any additional considerations. Alcohol has been restricted to 21 and over for ages now, yet has failed to keep 50% more high schoolers from drinking vs. vaping and smoking combined the 21 standard is not a measure that helps any significant amount on its own, and there is nothing else in this law that makes it more effective. In my opinion if you really want to make a difference and keep these products(vape) out of the hands of minors, you should start with banning sales on these products on line. Not by simply raising the age locally on these products. Your plan does not include a way for current smokers or vapers that are of legal age now to continue to have access to these products if indeed you raise the legal age to 21. Please dont treat vaping the same as a lit cigarette. I am here to tell you personally that they are not the same.

I just think it's kind of silly that you won't be able to smoke a cigarette but will still be allowed to fight wars at 18. If you're going to raise the adult age to 21 then it should be upheld in all areas of the law.

I do not believe changing the age 21 will have an impact. If someone wants them they will find a way. Now if you increase the age limit to enter the service you might have something. 18 is the age they can go to war, for all of us . So leave this cigarette age where it is.

This will not stop smoking. This will only criminalize our youth.

This is in response to your request for feedback on the proposed tobacco ordinance. To smoke or not to smoke is an individual decision and not one that any Government office should get involved in. There is ample evidence presented to the public about the dangers of smoking so Government needs to stay out of the decision. Basically, Government spends too much time interfering in the public lives as it is, so please find something more worthwhile to do rather than being so intrusive into the taxpayers lives.

No way! People have made the decision to join the military at 18, vote at 18, drive cars at 16. More laws are not going to help and will only aid in criminalizing America's youth.

I do not support this proposed tobacco ordinance. If 18 year olds are old enough to join military service and vote, they are old enough to buy tobacco products. Let's stop babying them and let them be grownups. If they really want too, they will find a way to use tobacco products regardless, at least this way we can regulate it. Also, do we really need to waste the time of police with enforcement of such non-sense?? If you have any follow-up questions, please feel free to email me.

I just read about this in Steve K's newsletter. I am a senior who is a former smoker who has been smoke free for about 15 years. Although I no longer smoke and choose to stay away from smokers, I am opposed to changing the age to buy cigarettes. An 18 year old can fight our wars, legally

marry, enter into contracts, etc. While I acknowledge many 18 to 21 year olds are lacking in common sense, I think it is wrong to tell them they can't buy cigarettes. The time and effort put into this would be better spent convincing them to not smoke instead of trying to turn them into criminals.

Please DO NOT allow the age to be lowered to purchase cigarettes and e cigarettes from 21 to 18.

I agree with being 21 to purchase tobacco products. I do not agree with vaping being included into this category. There is absolutely no tobacco in e-liquid. I challenge anyone to show proof that there is indeed tobacco in e-liquid. We all know that this is simply another dishonest tactic by Big Tobacco to try and save their falling revenue. I smoked 2 packs a day for 33 years. Vaping saved my life. Vaping allowed me to quit tobacco virtually over night. I have been vaping for 5 years now. The last 3 years at ZERO nicotine. I am tobacco and nicotine free. I have helped other long time smokers also kick the tobacco habit by introducing them to vaping. They also are now vaping at zero nicotine. Smoking is dead. Vaping IS the future. And the future is NOW

Because people usually start smoking at ages younger than 18 (illegally) based on many smoking and/or vaping surveys. It wouldnt make sense to me to limit both tobacco and vapor products till older and further addicted. We should be incentivizing harm reduction such as vaping or heat not burn technology at 18 or older and limit traditional tobacco to 21 plus due to the roughly 50/50 rate of serious health issues or death. Thank you

Public vaping is harmless. Do what you want in regards to minors but for us adults trying to not smoke please be considerate. It's a slippery slope. I'd like to keep my access to these harm reduction tools so I don't have to smoke cigarettes any longer. Vaping is the only thing that has helped me.

I am in favor of increasing the age for vaping to 21 being a e cig user I am against the public vaping ban

I have been vaping for 7 yrs know and i believe that if i had not started vaping i would still be smoking way more harmful cigarettes. As far as raising the age i feel that by raising the age to 21 is going to unemploy many 18 yr olds and above in the vape shops. Also at 18 you are a adult and should be able to choose to vape or smoke. Kids under 18 or 21 are going to find a way to get tobacco products still. Vaping indoors should be left up to the owner to choose whether or not to allow vaping indoors.

T21 harms consumers and is an ineffective tool at slowing the spread of youth use. As of now, minors are getting their hands on vapor products already so why would increasing the legal age to 21 make them now follow the rules? This will only hurt the industry that has worked so hard and helped so many people make the switch to a healthier alternative. At the age of 18, you can enlist in the Military and the Majority of our Military already smokes cigarettes or will start smoking after enlisting. Raising the legal age to 21 will make it difficult for those who would prefer a healthier alternative. Public vaping bans harm the rights of tobacco users, business's and property owners, and increase long-term healthcare costs to the Government! It's been scientifically proven that second hand smoke is just as bad if not worse than smoking. The Public Vaping Ban will require Vapers to vape in a designated smoking area. These people have worked very hard to get away from cigarettes and now they would have to not only vape next to smokers but they will have the temptation to start smoking again! Second hand vapor has absolutely NO SIDE EFFECTS and is NOT harmful to anyone so why force us to inhale toxic smoke when we're trying to get away from it in the first place? This would also hurt consumers due to the fact that they will not be able to sample juices prior to their purchase. Consumers that are new to vaping NEED to try flavors to find out what will make their transition as easy as possible. If Consumers are not able to sample flavors,

it will make their transition to vaping much more difficult because they will have to rely on the recommendations of the employee instead of trying the flavors to find the right flavor for their specific needs. I appreciate you taking the time to read my comments.

Raising the age to buy tobacco from 18 to 21 will not stop kids from getting tobacco products. Alcohol is already a 21+ product, and far more kids are drinking than smoking.

Online Feedback Comments **For** the Proposed Changes

I strongly support raising the age to purchase tobacco products and E-cigarette/vaping devices from 18 to 21. Having a Tobacco 21 ordinance that also includes licensing and a strong enforcement protocol including fines and license suspensions if selling to underage Arizonans is also highly commendable. Even though I do not live in Tucson or Pima County, I believe that if this ordinance is approved it will help motivate other Arizona Communities the right way -including licensing and enforcement. Please demonstrate tobacco control leadership again in Arizona and enact Tobacco 21 the right way.

The Arizona Public Health Association supports the evidence based public health policy intervention to establish a tobacco and e-cigarette purchase age of 21 in Pima County. The data are clear that this intervention will be effective in reducing the ultimate number of nicotine addicted adults, will improve health outcomes, and reduce healthcare costs long-term in Arizona. Will Humble Executive Director, Arizona Public Health Association Director, Arizona Department of Health Services (2009-2015)

Spectacular idea! Many many years in the coming while the death and illness rate has undoubtedly increased substantially. The downside is the legislature- an anti Pima county entity that frequently summarily dismisses our progressive approaches with political jibberish(that would be called dysfunctional voting)such as their loss of tax money at the state level(ie Maricopa county). As a retired physician who saw many patients die from the many complications of smoking I could never make a stronger suggestion than as suggested above.

Dear Pima County Health Department, I am in total favor of delaying youth from purchasing tobacco and e-cigarette products by increasing the age to 21. By then, most people will realize that it's not a habit they should start, thus greatly reducing their chances of developing cancer. Thank you.

I strongly support the Tobacco 21Policy! Too many family and friends have died or are in serious bad health because of smoking. We also need to build awareness of the harm e-cigs can cause and including them on this policy would do just that. I'm tired of how the tobacco industry has bullied their way in profiting from selling poison and targeting our youth, all because they have money!!! Aren't we worth more than whatever they offer? I appreciate your time and hope for your support!

I am in favor of raising the age to purchase tobacco or nicotine products to the age of 21. The stuff is so harmful to anyone who inhalers it! Alcohol and tobacco/nicotine should all be set to the age of 21.

My 15 year old bought e cigarettes at his HS this is a real problem with young teens. We are in favor Of raising the age to 21, same as the legal drinking Age

I would like to add my input that i think the minimum age to buy any tobacco products shpuld be 21 years of age! Anyone under that age is not mature enough to make long term decisions regarding their health!

Please, please do. I lost two sons through smoking and my grandson just 18 and is now smoking. Please pass the law, please

I am in strong support of raising the minimum age to purchase tobacco to 21, creating a tobacco retail permit system for Pima County, and amending current smoking ordinance language to include electronic nicotine delivery systems. A large body of evidence shows that nicotine has detrimental and permanent effects on the developing brain. We know that youth who are exposed to nicotine in any form are more likely to become addicted and lifelong tobacco users. This is why the tobacco industry is lobbying against these policies. We also know that electronic nicotine delivery systems and vaping are not harmless. They produce toxicants that can harm the user and those exposed secondhand, just like with cigarettes. The vast majority of Pima County residents do NOT smoke, vape or use other forms of tobacco. Other jurisdictions have successfully implemented these policies. Please protect Pima County youth from becoming addicted to nicotine, and protect all Pima County residents from exposure to secondhand vapor.

As a mother to 6 children I would love to see Pima County increase the age from 18 to 21 years old to buy tobacco! Give kids a few more years to mature and be able to make a better choice. Also we need more education about drugs in our schools. Kids need to be educated about drug prevention programs!

I am writing to express my support of Ordinance T21. T21 raises the purchase age of tobacco and E-cigarettes to 21 years of age. We all know that heart and stroke disease is a result of a multitude of factors and smoking is one of them. I support this ordinance so that we keep tobacco products out of the hands of kids 18 years old and younger.

As a representative of the American Heart Association and a 2 time heart survivor, I am very supportive of the T21 ordinance to raise the purchasing age to 21 for tobacco and vaping products. Let's keep our kids healthy with a positive start to heart healthy living. Thank you for your efforts to support and push for this ordinance.

In an effort to protect the future health of our youth you must consider raising the minimum legal age to purchase tobacco products from 18-21 years old. Also, you must create a retail permit system for tobacco retailers in unincorporated Pima County to ensure the laws are upheld. Lastly, please amend the language to the current smoking ordinance to include electronic nicotine delivery systems.

As a mother of young adults I feel it's very important to: 1. Raise the minimum legal age to purchase tobacco products from 18-21 years old 2. Create a retail permit system for tobacco retailers in unincorporated Pima County 3. Amend language to the current smoking ordinance to include electronic nicotine delivery systems. My kids started young and are still smoking even though my husband and I do not smoke. Thanks for your support in this matter.

I strongly support the following: 1. Raise the minimum legal age to purchase tobacco products from 18-21 years old 2. Create a retail permit system for tobacco retailers in unincorporated Pima County 3. Amend language to the current smoking ordinance to include electronic nicotine delivery systems

The ordinance is of utmost importance in protecting the health of our community's children. The current availability of tobacco and related products to 18-year-olds leads not only to the presence of these products on our school campuses but, in turn, also to their use by students under 18. I am particularly concerned about the explosion in use of "vaping" devices among our students and the highly addictive nature of nicotine for adolescents. I strongly urge passage of the ordinance. Todd Jaeger, J.D. Superintendent Amphitheater Unified School District

I would like to take a moment to express my support of the proposed amendments to the Pima County Health Code as it relates to the smoking ordinance.

I am in total agreement with the proposed ordinance changes: 1. Raise the minimum legal age to purchase tobacco products from 18-21 years old 2. Create a retail permit system for tobacco retailers in unincorporated Pima County 3. Amend language to the current smoking ordinance to include electronic nicotine delivery systems THIS IS JUST COMMON SENSE if we ever want to reduce health care costs. DO the right thing please

We need to get this passed!!! Keep tobacco products out of the hands of our kids.

Please pass T21 to raise the purchasing age of tobacco products (all kinds) to 21. Tobacco use contributes to many health problems.

Appendix B: Joint Letter of Support



AMERICAN LUNG ASSOCIATION.
OF THE SOUTHWEST

ANR ANRF

Joint Letter In Support of Raising the Minimum Legal Sale Age to 21 City of Tucson & Pima County

February 15, 2019

Dear Pima County and Tucson City Administration and Staff,

We are pleased to submit this joint letter in strong support for efforts in both Pima County and the City of Tucson to reduce tobacco use among young people by raising the minimum legal sale age (MLSA) of tobacco products, including e-cigarettes, to 21. We were grateful for the opportunity to sit down with stakeholders in Tucson in January, to walk through the ordinance language in an effort to determine ordinance language that will have the greatest impact on health, and will immediately reduce youth access to tobacco products.

Tobacco remains this nation's number one preventable cause of premature death and disease, killing 480,000 Americans annually, including 8,300 in Arizona. Virtually all of them started using tobacco before age 21¹. Each year, 17,400 kids in Arizona try cigarettes for the first time; and 2,800 additional kids become new regular, daily smokers. Without additional action to reduce tobacco use, 115,000 of the youth in Arizona today will die early from a tobacco-related disease. Because tobacco is so harmful, we should do everything we can to prevent its use among young people.

The Institute of Medicine, one of the most prestigious scientific authorities in the United States, issued a comprehensive report concluding that raising the tobacco legal sale age to 21 will have a substantial positive impact on public health and save lives over the long term.² It finds that raising the tobacco sale

age will significantly reduce the number of adolescents and young adults who start smoking; reduce smoking-caused deaths; and immediately improve the health of adolescents, young adults and young mothers who would be deterred from smoking, as well as their children.

Our organizations are supportive of the attached draft ordinance. This draft is identical to the version sent to you on February 1, 2019, by the Preventing Tobacco Addiction Foundation. Raising the legal age for the sale of tobacco products to 21 is an important step that will protect youth and young adults from the unrelenting efforts of the tobacco industry to hook them to a deadly addiction. If Tucson adopts MLSA of 21, it will join the states of Hawaii, California, New Jersey, Oregon, Maine, and Massachusetts, and over 400 localities that have also increased the sale age. We urge swift passage of the proposed measure to increase the minimum tobacco sale age to 21, including e-cigarettes.

Sincerely,



Brian Hummell
Arizona Government Relations Director
American Cancer Society Cancer Action Network, Inc.



Nicole Olmstead
Government Relations Director, Arizona
American Heart Association



Annie Tegen
Director of Advocacy, Western Region
Campaign for Tobacco-Free Kids

AMERICAN LUNG ASSOCIATION.
OF THE SOUTHWEST

JoAnna Strother
Regional Director of Public Policy, Western Division
American Lung Association of the Southwest

ANR ANRF

Char Day
Program Manager
Americans for Nonsmokers' Rights

¹ National data show that about 95 percent of adult smokers begin smoking before they turn 21, and a substantial number of smokers start even younger—more than 80 percent of adult smokers first try smoking before age 18. Calculated based on data in the National Survey on Drug Use and Health, 2014, <http://www.ipeds.unich.edu/ipedsweb/SAMHDA/>.

² Institute of Medicine, *Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products*, March 12, 2015, <http://www.iom.edu/Reports/2015/Tobacco-MinimumAgeReport.aspx>.

Appendix C: Professional Fire Fighters of Arizona



PROFESSIONAL FIRE FIGHTERS OF ARIZONA

March 8, 2019

Dear Supervisor Elias and Members of the Board,

I am the President of the Professional Fire Fighters of Arizona. I represent over 7100 of the Fire Fighters and Paramedics whom respond to emergencies everyday throughout Arizona. Many of our patients are those suffering from the terrible diseases and health problems caused by tobacco use and addiction to nicotine.

It has come to our attention that you are considering to raise the minimum legal sales age of tobacco products to 21 to protect the health and safety of the entire community.

Data shows that more than 95% of long-term smokers start before age 21. Additionally, research tells us that of those currently smoking under the age of 18, their primary source of tobacco products is their 18 to 20 year old peers. Curbing tobacco influence among young adults should help prevent a new cohort of lifetime smokers. Additionally, any measure to further advance efforts in reducing nicotine addiction and the societal burdens caused by tobacco use are a tremendous service.

We fully support raising the minimum legal sales age of tobacco products to 21, and validate the significance of including provisions for a tobacco retail permit system, compliance, indoor vaping prohibition and ongoing tobacco prevention education for the community.

Thank you for your consideration and interest in preventing youth tobacco use. We look forward to working with you in the future to make Arizona and our communities a better place to work and live.

Sincerely,

Bryan Jeffries
President, Professional Fire Fighters of Arizona



American Cancer Society Position Statement on Electronic Cigarettes

The American Cancer Society Board of Directors approved the following position statement on electronic cigarettes (e-cigarettes) in February 2018. The position statement will be used to guide ACS's tobacco control and cessation efforts as it relates to these products.

ACS Position Statement on Electronic Cigarettes

Combustible tobacco products, primarily cigarettes, are the single greatest cause of cancer and kill about 7 million people worldwide each year. In the United States, 98% of all tobacco-related deaths are caused by cigarette smoking. The U.S. tobacco landscape has changed rapidly in recent years, with millions of consumers now using electronic nicotine delivery systems (ENDS), the most prominent of which are electronic cigarettes (e-cigarettes). E-cigarettes contain heated nicotine extracted from tobacco, as well as a variety of flavorings and other additives.

Scientific Summary: Based on currently available evidence, using current generation e-cigarettes is less harmful than smoking cigarettes, but the health effects of long-term use are not known. The American Cancer Society (the ACS) recognizes our responsibility to closely monitor and synthesize scientific knowledge about the effects of all tobacco products, including e-cigarettes and any new products derived from tobacco. As new evidence emerges, the ACS will promptly report these findings to policy makers, the public and clinicians.

Clinical Recommendations: The ACS has always supported any smoker who is considering quitting, no matter what approach they use; there is nothing more important that they can do for their health. To help smokers quit, the ACS recommends that clinicians advise their patients to use FDA-approved cessation aids that have been proven to support successful quit attempts. Many smokers choose to quit smoking without the assistance of a clinician and some opt to use e-cigarettes to accomplish this goal. The ACS recommends that clinicians support all attempts to quit the use of combustible tobacco and work with smokers to eventually stop using any tobacco product, including e-cigarettes. Some smokers, despite firm clinician advice, will not attempt to quit smoking cigarettes and will not use FDA approved cessation medications. These individuals should be encouraged to switch to the least harmful form of tobacco product possible; switching to the exclusive use of e-cigarettes is preferable to continuing to smoke combustible products. Of course, these individuals should be regularly advised to completely quit using all tobacco products. The ACS strongly discourages the concurrent (or "dual") use of e-cigarettes and combustible cigarettes, a behavior that is far more detrimental to a person's health compared to the substantial health benefit of quitting smoking.

Policy Recommendations: The American Cancer Society recommends implementing policies and public health measures known to prevent the initiation and use of all tobacco products, including appropriate taxation, retail policies (e.g., raising the minimum age of purchase to 21), tobacco and e-cigarette aerosol-free policies and funding of evidence-based prevention and cessation programs. The ACS strongly recommends that every effort be made to prevent the initiation of e-cigarettes by youth. The use of products containing nicotine in any form among youth is unsafe and can harm brain development. Furthermore, evidence indicates that young e-cigarette users are at increased risk for both starting to smoke and becoming long-term users of combustible tobacco products.

The ACS encourages the FDA to regulate all tobacco products, including e-cigarettes, to the full extent of its authority, and to determine the absolute and relative harms of each product. The FDA should assess whether e-cigarettes help to reduce tobacco-related morbidity and mortality, and the impact of marketing of e-cigarettes on consumer perceptions and behavior. Any related regulatory regime should include post-marketing surveillance to monitor the long-term effects of these products and ensure the FDA's actions have the intended health outcome of significantly reducing disease and death. Furthermore, the FDA should use its authorities to reduce the toxicity, addictiveness and appeal of tobacco products currently on the market. The ACS also applauds the FDA for recognizing its significant role as a science-based agency in helping to address the addictiveness of nicotine in cigarettes. Reducing nicotine in all combustible tobacco products to below addictive levels holds the potential to significantly accelerate reductions in the use of combustible tobacco products, which remain by far the leading preventable cause of cancer and preventable death in the United States.

Statement issued February 15, 2018

Appendix E: Ordinance Objection Signatures (see hard copies)

ATTACHMENT 2

Implementation Timeline

[illegible]

ATTACHMENT 3

Cost Basis for Fee and Proposed Budget

Permit fees from County and City of Tucson retailers would be utilized to offset the cost of ordinance changes, specifically site visits and compliance checks. To implement the proposed ordinance, the fee for each permit would be at least \$290 per year. This budget assumes 530 retail establishments. See the budget breakdown below.

Personnel		Salary	*ERE	Total
Number of Positions	2.4	\$93,259	\$32,640	\$125,899
Operations				
Mileage	10,000 mi		\$0.445/mi	\$4,450
Laptops	2		\$1,550	\$3,100
Cell phone	2		\$600	\$1,200
Software License	3		\$2,000	\$6,000
Postage				\$600
Printing/Promotional Materials				\$4,750
Youth Stipends	30	\$265		\$7,950
SUB-TOTAL				\$28,050
TOTAL				\$153,949

* Employee Related Expenses