

**CHARTER TOWNSHIP OF WHITE LAKE
OAKLAND COUNTY, MICHIGAN**

NOTICE OF ADOPTION

**AMENDMENT TO CHAPTER 26, ARTICLE VIII, SECTION 26-239, OF THE WHITE
LAKE TOWNSHIP CODE OF ORDINANCES**

Notice is hereby given that at a regular board meeting on December 18, 2018 the Charter Township of White Lake adopted amendments to Chapter 26, Article VIII, Section 26-239 of the Code of Ordinances, commonly referred to as Youth Tobacco.

THE CHARTER TOWNSHIP OF WHITE LAKE ORDAINS:

ARTICLE I AMENDMENTS

Section 26-239 – Youth tobacco and vapor products - amending and adding vapor products as follows:

Any person who shall sell, give or furnish a tobacco product or vapor product to a minor shall be guilty of a misdemeanor. For purposes of this section, the term "minor" means an individual under 18 years of age; the term "tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, noncigarettes smoking tobacco or smokeless tobacco, as those terms are defined in Section 2 of the Tobacco Products Tax Act, Public Act No. 327 of 1993 (MCL 205.422), and cigars; the term "vapor product" means a noncombustible product that employs a heating element, power source, electronic circuit or other electric, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or other substances or forms, including, but not limited to, electronic cigarettes (e-cigarettes), electronic cigars, electronic cigarillos, electronic pipes, and similar products or devices intended to be used with such products or devices; and the term "person who sells tobacco products or vapor products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products or vapor products subject to state sales tax.

(1) Sale of tobacco products or vapor products to minors; prohibition, penalty; public health department sign; affirmative defense, rebuttal.

a. A person shall not sell, give or furnish any tobacco product or vapor product to a minor. Any person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each violation.

b. A person who sells tobacco products or vapor products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of community health that includes the following statement:

"The purchase of tobacco products or vapor products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law. A minor unlawfully purchasing or using tobacco products or vapor products is subject to criminal penalties."

c. It is an affirmative defense to a charge pursuant to subsection (1)a of this section that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of tobacco products or vapor products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

(2) Selling of cigarettes separately; prohibited; exception; violation as misdemeanor; penalty.

a. Except as otherwise provided in subsection (2)b of this section, a person who sells tobacco products at retail shall not sell a cigarette separately from its package.

b. Subsection (2)a of this section does not apply to a person who sells tobacco products at retail in a tobacco specialty retail store or other retail store that deals exclusively in the sale of tobacco products and smoking paraphernalia.

c. A person who violates subsection (2)a of this section is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each offense.

(3) Use or possession of tobacco products or vapor products by minor in public; penalty, health promotion and risk reduction assessment program.

a. A minor shall not purchase, attempt to purchase, possess, attempt to possess, use, chew, smoke or otherwise use or consume tobacco products or vapor products on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each violation.

b. Pursuant to a probation order, the court may require a person who violates this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the costs of participating in the program. In addition, a person who violates this section is subject to the following:

1. For the first violation, the court may order the person to do one of the following:

(i) Perform not more than 16 hours of community service in a hospice, nursing home or long-term care facility.

(ii) Participate in a health promotion and risk reduction program, as described in this subsection.

2. For a second violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home or long-term care facility.

3. For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home or long-term care facility.

c. Subsection (3)a of this section does not apply to a minor participating in any of the following:

1. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

2. An undercover operation in which the minor purchases or receives a tobacco product or vapor product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation.

3. Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a community mental health services program, and with the prior approval of the state police or a local police agency.

d. Subsection (3)a of this section does not apply to the handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.

e. This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the violation of subsection (3)a of this section.

(4) Interference with rights of parent or guardian. This article does not interfere with the right of a parent or legal guardian in the rearing and management of his minor children or wards within the bounds of his own private premises.

ARTICLE II: SEVERABILITY.

ARTICLE III: EFFECTIVE DATE.

ARTICLE IV: REPEALER.

ARTICLE V: ADOPTION.

This Ordinance will be in effect seven (7) days after publication. A full and complete text of the foregoing Ordinance is available for purchase or inspection at the office of the Township Clerk at 7525 Highland Road, White Lake, Michigan during regular hours from 8 A.M. to 5 P.M. Monday through Friday, except holidays.

Terry Lilley, CMC, CMMC
White Lake Township Clerk
Effective 1/16/2019