

ORDINANCE NO. O-2018-28

**AN ORDINANCE AMENDING SECTION 26-135 - PROHIBITED SALES, DELIVERY,
SECTION 26-135.5 - SIGNS, SECTION 26-136 - MINIMUM AGE TO SELL TOBACCO
PRODUCTS, AND SECTION 26-137 - PURCHASE BY MINORS PROHIBITED;
PENALTY, OF ARTICLE V (TOBACCO) OF CHAPTER 26 (BUSINESSES) OF THE
WHEATON CITY CODE**

WHEREAS, the City of Wheaton, Illinois ("City") is an Illinois home rule municipality pursuant to provisions of Article VII, Section 6, of the Illinois Constitution, 1970, and as such the City may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City regulates tobacco products in Article V (Tobacco), Chapter 26 (Businesses) of the Wheaton City Code; and

WHEREAS, recent studies indicate that 95 percent of all adult smokers started smoking before they turned 21 years old; and

WHEREAS, studies also indicate that people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age; and

WHEREAS, tobacco and e-cigarette use have decreased significantly in jurisdictions for which the minimum sales age for tobacco products has been increased to 21 years of age; and

WHEREAS, the Mayor and City Council of the City of Wheaton have determined that it will serve and advance the public's health, safety and welfare and be in the best interest of the City and its residents, to amend the Wheaton City Code to increase the minimum age for the purchase and sale of tobacco products to 21 years of age.

NOW THEREFORE BE IT ORDAINED, by the Mayor and City Council of the City of Wheaton, pursuant to its home rule authority as follows:

Section 1: That Section 26-135 - Prohibited sales, delivery, of Article V (Tobacco) of Chapter 26 (Businesses), is hereby repealed and rescinded in its entirety and replaced with a new Section 26-135 as follows:

"Section 26-135 - Prohibited sales, delivery

It shall be unlawful for any person including any licensee under this article to sell, offer for sale, give away, deliver, promote, or advertise tobacco products to any person under the age of 21 years."

Section 2: That Section 26-135.5 - Signs, of Article V (Tobacco) of Chapter 26 (Businesses), is hereby repealed and rescinded in its entirety and replaced with a new Section 26-135.5 as follows:

"Section 26-135.5 - Signs

Signs informing the public of the age restrictions provided for in this section shall be posted by every licensee at every display of tobacco products for sale. Each such sign shall be plainly visible and shall state:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER
21 YEARS OF AGE IS PROHIBITED BY LAW.

The text of such signs shall be in red letters on a white background, such letters to be at least one-half-inch high."

Section 3: That Section 26-136 - Minimum age to sell tobacco products, of Article V (Tobacco) of Chapter 26 (Businesses), is hereby repealed and rescinded in its entirety and replaced with a new Section 26-136 as follows:

"Section 26-136 - Minimum age to sell tobacco products

- (a) Except as provided in subsection (b), it shall be unlawful for any licensee and/or any officer, associate, member, representative, agent or employee of such licensee under this article to engage, employ or permit any person under 18 years of age to sell tobacco products in any licensed premises.
- (b) An agent or employee of a licensee younger than 18 years of age, but at least 16 years of age, may sell tobacco products in any licensed premises, only if an officer, agent or employee of the licensee who is at least 21 years of age is on the licensed premises at the time of such sale.
- (c) It shall always be unlawful for any person under the age of 16 years to sell tobacco products."

Section 4: That Section 26-137 - Purchase by minors prohibited; penalty, of Article V (Tobacco) of Chapter 26 (Businesses), is hereby repealed and rescinded in its entirety and replaced with a new Section 26-137 as follows:

"Section 26-137 - Purchase by minors prohibited; penalty

It shall be unlawful for any person under the age of 21 years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products."

Section 5: If a court of competent jurisdiction sets aside any portion of this Ordinance as unconstitutional or unlawful, it shall not affect the validity of the remainder of the Ordinance.

Section 6: Any Ordinance which is inconsistent with this Ordinance is repealed to the extent of such inconsistency.

Section 7: This Ordinance shall be in full force and effect July 1, 2018, as provided by law.



Michael Gresk

Mayor

ATTEST:



Alan Bennett Hagan

City Clerk

Roll Call Vote

Ayes:

Councilman Prendiville
Mayor Gresk
Councilman Rutledge
Councilman Scalzo
Councilman Suess
Councilman Barbier
Councilwoman Fitch

Nays:

None.

Absent:

None.

Motion Carried Unanimously

Passed: May 21, 2018

Published: May 22, 2018

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