

CHARTER TOWNSHIP OF BLOOMFIELD

ORDINANCE NO. 657

AN ORDINANCE TO AMEND CHAPTER 22, OFFENSES, ARTICLE VIII, OFFENSES RELATING TO UNDERAGE PERSONS, DIVISION 2, TOBACCO PRODUCTS, SECTION 22-303 TO 22-342 AND ADDING DIVISION 7 RECREATIONAL MARIHUANA.

THE CHARTER TOWNSHIP OF BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 22, Division 2 of the Charter Township of Bloomfield Code of Ordinances titled TOBACCO PRODUCTS is hereby re-titled as follows.

**DIVISION 2. TOBACCO, VAPOR, NICOTINE, AND
ALTERNATIVE NICOTINE PRODUCTS**

Section 2 of Ordinance

Chapter 22, Article VIII, Division 2, Tobacco, Vapor, Nicotine, and Alternative Nicotine Products is hereby amended to read as follows:

Sec. 22-303. Purpose and intent.

It is the purpose of this division to regulate and control the use and/or possession of tobacco, vapor, nicotine, and alternative nicotine products on school property and by minors in general. The Township Board finds and determines that it is in the interest of the public health, safety, and general welfare to regulate tobacco, vapor, nicotine, and alternative nicotine products in this manner; to encourage and enforce compliance; and to have the regulation apply to public and non-public school properties.

Sec. 22-304. Definitions.

As used in this ordinance, the following terms shall be defined as follows.

Alternative nicotine product means a noncombustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved, inhaled or ingested by any other means.

Minor means a person under 18 years of age.

Nicotine product means a product that does not contain tobacco, but delivers nicotine, including vapor products, and other nicotine delivery methods and devices.

Nonpublic school means a private, denominational or parochial school organization not regulated by the Revised School Code, Public Act No. 451 of 1976, MCL 380.1, *et seq.*

Public place means a public highway, street, alley, park, building or land, buildings or lands used or available for use for public purposes, public places of business or amusement and all other places and locations open to the general public.

School district means a school district, local act school district, or intermediate school district as those terms are defined in the Revised School Code, Public Act No. 451 of 1976, MCL 380.1, *et seq.*; or a consortium or cooperative arrangement consisting of any combination of these.

School property means any real property including buildings, facilities, structures and grounds, owned, leased or otherwise possessed or controlled by a school district or a nonpublic school.

Smoking means the possession and/or use of a lighted and/or electronic activated cigar, cigarette, pipe, nicotine delivery device or method, alternative nicotine product, tobacco product, vapor product or other lighted smoking device.

Tobacco product means a product that contains tobacco and is intended for human consumption including, but not limited to, cigarettes, cigars, non-cigarette smoking tobacco, chewing tobacco, tobacco snuff or smokeless tobacco as those terms are defined in Section 2 of the Tobacco Products Tax Act, 1993 PA 327, MCL 205.422.

Use means carrying; or having possession and control; smoking; inhaling; ingesting; chewing; snorting, sniffing, absorbing, or placing within a person's mouth a lighted cigarette, cigar, pipe, or other smoking device, or a tobacco, nicotine, vapor, or alternative nicotine product.

Vapor product means a noncombustible product containing nicotine 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 in a solution or other form. Vapor products include, but are not limited to, an electronic cigarette (E cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette (E cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Sec. 22-305. Prohibited use.

- (a) A person shall not use a tobacco, vapor, nicotine or alternative nicotine product on school property.
- (b) The prohibited use of tobacco, vapor, nicotine or alternative nicotine products on school property applies to all indoor and outdoor areas of school property, including open-air stadiums, and applies at all times regardless of whether school is in session.

- (c) A person who violates this section is responsible for a municipal civil infraction punishable by a fine of not more than \$100.00.

Sec. 22-306. Use or possession of tobacco, vapor, nicotine or alternative nicotine products by minors.

- (a) A minor shall not possess, consume, or otherwise use tobacco products, vapor products, nicotine or alternative nicotine products in any public place including, but not limited to, a public highway, street, alley, sidewalk, park, public place of business or amusement or other place open to the public within the Township.
- (b) A person who violates this section is responsible for a municipal civil infraction punishable by a fine of not more than \$100.00.
- (c) A person who violates this section may also be ordered by the court pursuant to a probation order to participate in and pay the costs of a health promotion and risk reduction assessment program, if available, and to perform community service in a hospice, nursing home, or long-term care facility for up to 16 hours for a first violation, 32 hours for a second violation, and 48 hours for a third or subsequent violation.

Sec. 22-307. Sale of tobacco products, vapor products, nicotine or alternative nicotine products to minors.

- (a) A person shall not sell, give, or furnish any tobacco products, vapor products, nicotine or alternative nicotine products to a minor including, but not limited to, a direct sale or through a vending machine.
- (b) A minor under 18 years of age shall not misrepresent his or her age in order to purchase tobacco products, vapor products, nicotine or alternative nicotine products.
- (c) This section shall not apply to the handling or transportation of a tobacco product, vapor product, or alternative nicotine product by a minor under the terms of the minor's employment.
- (d) A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed \$500.00.

Sec. 22-308. Retail store signage.

- (a) A person who sells tobacco products, vapor products, nicotine or alternative nicotine products at retail shall post in a place close to the point of sale and conspicuous to both employees and customers a sign that includes the following statement:

"The purchase of tobacco products, vapor products, nicotine or alternative nicotine products by a minor under 18 years of age; and the provision of tobacco products, vapor products, nicotine and/or alternative nicotine products to a minor

are prohibited by law. A minor unlawfully purchasing or using tobacco products, vapor products, nicotine and/or alternative nicotine products is subject to penalties under law."

- (b) A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed \$500.00.

Sec. 22-309 - 22-342. Reserved.

Section 3 of Ordinance

Chapter 22, Article VIII, Division VI, previously reserved Sections 22-405 to 22-500 is hereby amended to read as follows:

Sec. 22-405 - 22-449. Reserved.

Section 4 of Ordinance

Chapter 22, Article VIII, Offenses Related to Under Age Persons, is hereby amended to add Division 7, Recreational Marihuana, Section 22-450 to 22-500 as follows:

DIVISION 7. RECREATIONAL MARIHUANA

Sec. 22-450. Possession of marihuana by a person under 21 years of age.

- (a) *Prohibited.* It shall be unlawful for a person under 21 years of age to possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana as defined by Sec. 22-525 of this Chapter.
- (b) *Penalty.* A person under 21 years of age who possess no more than 2.5 ounces of marihuana or who cultivates no more than 12 marihuana plants shall be subject to the following penalties:
 - (i) *First violation:*
 - A. If the person is less than 18 years of age, by a fine of not more than \$100.00 or community service, forfeiture of the marihuana, and completion of four (4) hours of drug education or counseling.
 - B. If the person is at least 18 years of age, by a fine of not more than \$100.00 and forfeiture of the marihuana.

- (ii) *Second or subsequent violation:*

- A. If the person is less than 18 years of age, by a fine of not more than \$500.00 or community service, forfeiture of the marihuana, and completion of eight (8) hours of drug education or counseling.
- B. If the person is at least 18 years of age, by a fine of not more than \$500.00 and forfeiture of the marihuana.

(iii) *Possession of more than 2.5 ounces or more than 12 plants:*

If the person under 21 years of age is in possession of more than 2.5 ounces of marihuana or cultivates more than 12 marihuana plants, the penalty shall be a fine of \$500.00 and/or 90 days in jail, plus forfeiture of marihuana.

Sec. 22-451. Sale, furnish, or transfer marihuana accessories to person under 21 years of age.

- (a) *Prohibited.* A person shall not sell, give, furnish, or transfer any marihuana accessories as defined by Sec. 22-525 of this Chapter to any person who is under the age of 21.
- (b) *Penalty.* A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed \$500.00, and/or 90 days in jail.

Sec. 22-452. Sale, furnish, or transfer marihuana to person under 21 years of age.

- (a) *Prohibited.* A person shall not sell, give, furnish, or transfer marihuana as defined by Sec. 22-525 of this Chapter to any person who is under the age of 21.
- (b) *Penalty.* A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed \$500.00 and/or 90 days in jail.

Sec. 22-453. Application of the Michigan Medical Marihuana Act.

The regulations contained herein do not apply to those acts permitted pursuant to a validly issued license under the Michigan Medical Marihuana Act, MCL 333.26421, *et seq.*

Sec. 22-454 to 22-500. Reserved.

CERTIFICATION

STATE OF MICHIGAN)
) SS.
 COUNTY OF OAKLAND)

I, Janet Roncelli, the duly elected Clerk for the Charter Township of Bloomfield, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of the Ordinance adopted by the Township Board for the Charter Township of Bloomfield at a meeting

held on the 13th day of May, 2019, the original of which is on file in the Office of the Township Clerk.

CHARTER TOWNSHIP OF BLOOMFIELD

Janet Roncelli, Clerk

INTRODUCED: April 22, 2019
PUBLISHED: May 5, 2019
ADOPTED: May 13, 2019
PUBLISHED: May 19, 2019
EFFECTIVE: May 19, 2019