



## **Missoula City Council**

### **Tobacco Ordinance Backgrounder**

An ordinance of the Missoula City Council creating Title 8, Chapter 8.38 Missoula Municipal Code titled “Restrictions on the Display of Tobacco Products and the Sale of Flavored Electronic Tobacco Products, and on the unlawful transactions consisting of selling or giving tobacco products to youth under the age of 18.”

Tentative approval by Missoula City Council: Monday, November 23, 2020

#### **The Issue**

Tobacco companies use predatory marketing tactics to target youth, particularly susceptible consumers, by placing a large number of tobacco products popular with young people at retail stores, often within reach and near gum and candy.

Research conducted over the past few decades show that the tobacco products industry’s marketing activities, including flavors and placement within children’s reach in convenience stores, have been a key factor in leading young people to take up tobacco products, keeping some users from quitting and achieving greater consumption among users.

Additionally, research has found that nicotine exposure in youth can disrupt the formation of brain circuits that control attention, learning, impulse control and mood; further, e-cigarette use predicts the onset of combustible tobacco product use.

In 1997, 38.1 % of high school students had smoked at least one cigarette a day for the past thirty days; by 2011, it was 16.5%, 2013 – 15.2%, 2017 – 12.1%, and by 2019 - 7.7%. However, as electronic vapor products became more widely used, those users have escalated in the last few years, so that high school students have used a vapor product within the last thirty days at the rate of 2015- 29.5%, 2017 – 22.3%, and 2019 – 30.2%. This escalation has caused health experts to call it a “vaping epidemic” among youth.

On December 20, 2019, the federal government raised the minimum age of sale of tobacco products from 18 to 21 years of age, which was effective immediately. The Centers for Disease Control and Prevention and the U.S. Food and Drug Administration analyzed nationally represented data from the 2020 Youth Tobacco survey, gathered from January 16, 2020, to March 16, 2020, and found that in 2019 approximately one in four high school students reported e-cigarette use; in 2020, it was one in five. Although the federal change in the legal age to use tobacco to 21 helped, it did not resolve the problem.

### **The issue in Missoula**

In Missoula, the principal of Big Sky High School submitted public comment for the ordinance on October 20, 2020, saying, "In Missoula...we are experiencing an epidemic of e-cigarette use among youth. [T]he arrival of e-cigarettes and the continued marketing of flavored products, and their presence in local stores, presents an uphill challenge."

According to the 2019 Missoula County Youth Risk Behavior Survey, more than **50%** of high school students responded they had used an electronic vaping product, and more than **38%** of responded that they had used an electronic vapor product in the past 30 days. When asked how they obtained the products, 3.19% of the students responded they bought them in a store such as a convenience store, supermarket, discount store, gas station or vape store; 0.96% bought them on the Internet; 8.13% gave someone else money to buy them for them; 17.22% borrowed them from someone else; 3.19% responded that a person who can legally buy these products gave them to them; 0.48% took them from a store or another person; and 4.63% got them some other way.

### **City Council Action**

In February of 2020, the Missoula City-County Board of Health passed a resolution asking the Missoula City Council, the Mayor of Missoula and the Missoula County Commissioners to take action on reducing youth access to and use of flavored tobacco products to protect health.

The Missoula City Council received a community letter signed by about 80 community members, a resolution from the board of Providence Medical Center and a resolution from the Providence Medical Community.

### **The Ordinance**

Chapter 8.38: Restrictions on the Display of Tobacco Products, and the Sale of Flavored Electronic Tobacco Products, and on the unlawful transactions consisting of selling or giving tobacco products to youth under the age of 18.

## **Ordinance Intent**

The intent of the Missoula City Council in enacting this ordinance is to protect public health and welfare by reducing access to flavored electronic tobacco products and self-service access to tobacco products and prohibiting unlawful transactions consisting of selling or giving tobacco products to minors under the age of 18, making it easier to quit and more difficult to start.

Youth obtain flavored tobacco products used in conjunction with electronic smoking devices from various sources -- local stores, the Internet, friends and family. Local government can address local stores sales by prohibiting the sale of these products. This creates a greater barrier to youth possession, either by youth purchasing the products, or by friends, family or someone else purchasing them for them.

## **Ordinance Components:**

- Requires retailers to put all tobacco products behind the counter, in stores that sell products other than tobacco, and allow minors under the age of 21 to enter the premises;
- Prohibits the sale of flavored tobacco products used in conjunction with electronic smoking devices;
- Makes it unlawful for anyone to knowingly sell or give any tobacco product to a youth.

## **Ordinance Enforcement**

- The Health Department will enforce the provisions of 8.38.040 (behind the counter) and 8.38.050 (prohibiting the sale of flavored tobacco products used in or with electronic smoking devices);
- The Missoula Police Department will enforce the provision regarding anyone legally buying the product and then selling or giving it to a minor.

## **Ordinance Effective Date**

This will go into effect on January 25, 2021, allowing stores time to sell the remainder of their product and take action to put all tobacco products behind the counter.

## **Additional information:**

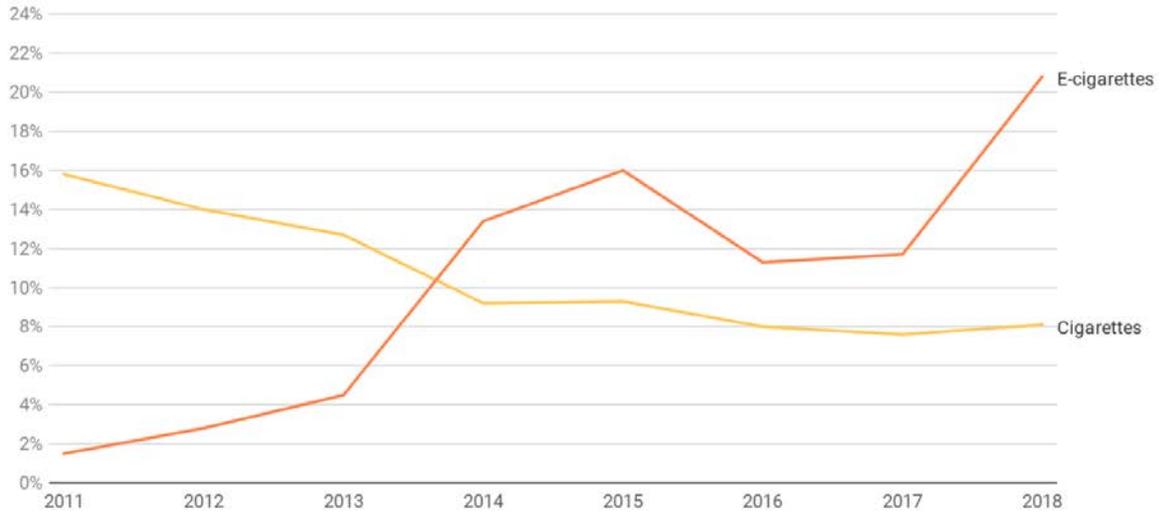
2019 Youth Risk Behavior Survey for Missoula County



2019YRBS-MissoulaCountyHS.pdf

## High School Students Smoking Less, Vaping More

The National Youth Tobacco Survey, published by the Centers for Disease Control and Prevention, quantified the surging popularity of e-cigarettes among high school students.

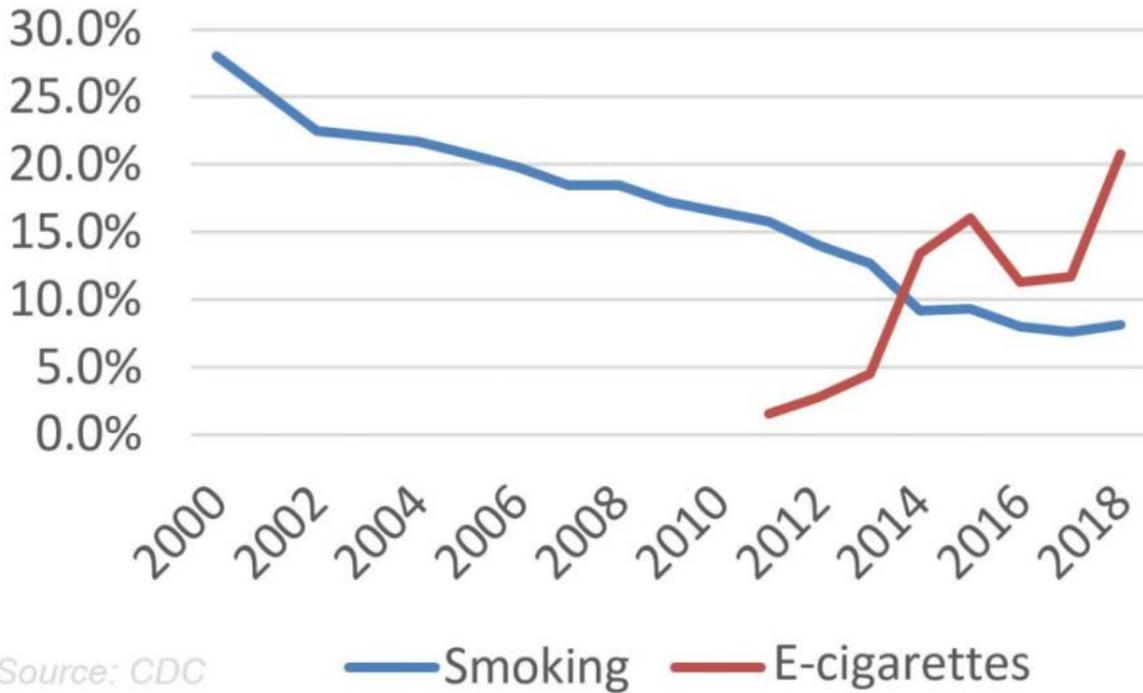


These numbers represent the percentage of high school students who reported having used cigarettes or e-cigarettes within the previous 30 days.

Credit: Harriet Blair Rowan/California Healthline

Source: Centers for Disease Control and Prevention • Created with Datawrapper

## TOBACCO USE IN U.S. HIGH SCHOOL STUDENTS



Source: CDC

— Smoking — E-cigarettes