

**CHARTER TOWNSHIP OF MILFORD
ORDINANCE NO. 232
OFFENSES INVOLVING UNDERAGED PERSONS**

AN ORDINANCE TO AMEND ARTICLE VIII, OFFENSES INVOLVING MINORS, OF CHAPTER 18, OFFENSES, OF THE CODE OF ORDINANCES FOR THE CHARTER TOWNSHIP OF MILFORD, BY REPEALING SECTION 18-289, SALE OF TOBACCO, VAPOR AND ALTERNATIVE NICOTINE DELIVERY PRODUCTS TO MINORS, AND SECTION 18-290, USE OR POSSESSION OF TOBACCO, VAPOR AND ALTERNATIVE NICOTINE DELIVERY PRODUCTS BY MINOR IN PUBLIC, IN THEIR ENTIRETY AND REPLACING THEM WITH A NEW SECTION 18-289, SALE OF TOBACCO, VAPOR AND ALTERNATIVE NICOTINE DELIVERY PRODUCTS TO PERSON LESS THAN 21 YEARS OF AGE, AND SECTION 18-290, USE OR POSSESSION OF TOBACCO, VAPOR AND ALTERNATIVE NICOTINE DELIVERY PRODUCTS BY MINOR IN PUBLIC, IN ORDER TO CORRESPOND WITH FEDERAL AND STATE LAW AGE AND PENALTY PROVISIONS FOR VIOLATIONS.

THE CHARTER TOWNSHIP OF MILFORD ORDAINS:

Section 1. Amendment.

Section 18-289, Sale of Tobacco, Vapor and Alternative Nicotine Delivery Products to Minors, and Section 18-290, Use or Possession of Tobacco, Vapor and Alternative Nicotine Delivery Products by Minor in Public, of Article VIII, Offenses Involving Minors, of Chapter 18, Offenses, of the Code of Ordinances for the Charter Township of Milford, shall be repealed in their entirety and replaced with a new Section 18-289, Sale of Tobacco, Vapor and Alternative Nicotine Delivery Products to Person Less Than 21 Years of Age, and Section 18-290, Use or Possession of Tobacco, Vapor and Alternative Nicotine Delivery Products by Minor in Public, which shall read as follows:

Sec. 18-289 Sale of Tobacco, Vapor and Alternative Nicotine Delivery Products to Person Less Than 21 Years of Age.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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

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, or smokeless tobacco as those terms are defined in Section 2 of the Tobacco Products Tax Act, 1993 PA 327, MCL 205.422.

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 or in a solution or other form. Vapor products include 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.

(b) A person shall not sell, give, or furnish any tobacco products, vapor products, or alternative nicotine delivery products to a person under 21 years of age. For purposes of this section, a person under the age of 21 is deemed a “minor”. A person who violates this section is guilty of a misdemeanor punishable by a fine as follows:

- (1) For a first offense, not more than \$100.00.
- (2) For a second offense, not more than \$500.00.
- (3) For a third or subsequent offense, not more than \$2,500.00.

(c) A person who sells tobacco products, vapor products, 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 a tobacco product, vapor product, or alternative nicotine product by a minor under 21 years of age and the provision of a tobacco product, vapor product, or alternative nicotine product to a minor are prohibited by law. A minor who unlawfully purchases or uses a tobacco product, vapor product, or alternative nicotine product is subject to criminal penalties."

Sec. 18-290 Use or Possession of Tobacco, Vapor and Alternative Nicotine Delivery Products by Minor in Public.

(a) A person under 21 years of age shall not purchase or attempt to purchase, possess or attempt to possess, present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, consume or otherwise use tobacco products on a public highway, street, alley, park or other lands used for public purposes, or any public place of business or amusement, or on school property within the township. For purposes of this section, a person under the age of 21 is deemed a “minor”.

(b) A person who violates subsection (a) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each offense. 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 cost of participating in the program. In addition, a person who violates this section may be subject to the court ordering community service and other appropriate legal sanctions.

(c) A person under 21 years of age shall not purchase or attempt to purchase, possess or attempt to possess, present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor or alternative nicotine product, consume or otherwise use vapor products or alternative nicotine delivery products on a public highway, street, alley, park or other lands used for public purposes, or any public place of business or amusement, or on school property within the township.

(d) A person who violates subsection (c) is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:

(1) For the first violation, the person is responsible for a municipal civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 16 hours of community service.

(2) For the second violation, the person is responsible for a municipal civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 32 hours of community service.

(3) If a violation of subsection (c) occurs after 2 or more prior judgments, the person is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 48 hours of community service.

Section 2. Repealer.

This Ordinance hereby repeals any ordinances in conflict herewith.

Section 3. Severability.

The various parts, Sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 4. Savings Clause.

That nothing in this Ordinance hereby adopted be construed to affect any just or legal right or remedy of any character nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. Adoption and Effective Date.

This Ordinance is hereby declared to have been adopted by the Board of Trustees for the Charter Township of Milford at a meeting thereof duly called and held on the 15th day of April 2020 and ordered to be given effect as mandated by Charter and statute.

Donald Green, Township Supervisor

Holly Brandt, CMC, Township Clerk

Introduction: February 19, 2020

Adoption: April 15, 2020

Published:

Effective Date: April 16, 2020

CERTIFICATION OF CLERK

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Charter Township of Milford Board on April 15, 2020 which was a regular meeting. I further certify that at said meeting there were present the following Board Members: Green, Brandt, Dagenhardt, Mazzara, Wiltse, Worrell.

I further certify that the adoption of said Ordinance was moved by Clerk Brandt and supported by Treasurer Dagenhardt.

I further certify that the following Board Members Brandt, Dagenhardt, Green, Mazzara, Wiltse, Worrell voted for the adoption of said Ordinance and that the following Board Members voted against the adoption of said Ordinance: None.

I further certify that the following Board Member(s): none abstained from voting.

I hereby certify that said Ordinance has been recorded in the Ordinance Book in said Township and that such recording has been authorized by the signature of the Township Supervisor and Township Clerk.

Holly Brandt, CMC, Township Clerk