
Sponsor: Public Health

Meeting Date: 7/12/2022

Title: Ramsey County Smoking and Commercial Tobacco Use Ordinance - Adopt the Ordinance

File Number: 2022-358

Background and Rationale:

Public Health, acting in the health interests of both the citizens of the city of Saint Paul and Ramsey County, seeks to reduce commercial tobacco use within the Ramsey County community. Commercial tobacco use is the single most preventable cause of death and disease. Long-term commercial tobacco use is directly related to many illnesses, including lung, oral and pharyngeal cancer and heart and lung diseases. In Ramsey County, one in eight deaths are commercial tobacco-related and commercial tobacco creates \$262.7 million in excess medical costs and a \$753 tax burden per household. (1)

Commercial tobacco-free policies help ensure all community members have a healthy environment in which to live. These policies help people who are trying to quit by eliminating the sight and smell of commercial tobacco. The Minnesota Clean Indoor Air Act and Ramsey County Clean Indoor Air Ordinance currently prohibit smoking and vaping (e-cigarettes) within virtually all indoor public places, including places of employment, and within 25 feet of entrances, exits, open windows and ventilation intakes of these locations. The Ramsey County Smoking and Commercial Tobacco Use Ordinance would expand upon the Minnesota Clean Indoor Air Act and Ramsey County Clean Indoor Air Ordinance to prohibit all commercial tobacco products on all property that is owned, leased, rented, contracted or otherwise used or controlled by Ramsey County, including indoor and outdoor spaces. This expansion of the current policy can be justified by the following:

Secondhand smoke can harm health both indoors and outdoors and smokeless commercial tobacco is not a safe alternative:

- There is no safe level of exposure to secondhand smoke and smoke and vape-free environments protect the Ramsey County community from secondhand smoke. (2)
- Secondhand smoke levels in outdoor locations can reach levels comparable to indoor levels where smoking is permitted. (3,4,5)
- Commercial tobacco smoke contains over 7,000 chemicals and is a common trigger for asthma attacks. People with asthma, respiratory conditions or heart disease can face serious health problems from even a brief exposure to secondhand smoke, both indoors and outdoors. (6)
- E-cigarette aerosol, commonly known as vapor, contains nicotine, carcinogens and metals, such as nickel and chromium, that can exceed those associated with conventional secondhand smoke.
- Evidence continues to build that exposure to vapor, including secondhand exposure, has immediate impacts on the human respiratory and cardiovascular systems and thus likely poses a risk to human health. (7)
- Secondhand smoke odor is detectable up to 23 feet from its source and irritation levels began around 13 feet from the source. Anyone positioned downwind from an outdoor source of secondhand smoke will be exposed, even at significant distances from the source. (8)
- Smokeless commercial tobacco causes nicotine addiction and death and disease including

many types of cancer and increased risk for heart disease and stroke. (9)

Policies that prohibit commercial tobacco use help prevent commercial tobacco exposure and use in youth and young adults:

- Evidence supports that the establishment of smoke-free public and workplace environments reduces the initiation, prevalence and intensity of smoking among youth and young adults. (9)
- Lower smoking rates are an effect of the lower visibility of role models who use commercial tobacco, fewer opportunities to smoke and reduced social acceptability and social advantage for smoking. (10)
- Vaping is a serious threat to young people's health. The 2020 Minnesota Youth Tobacco Survey found that one in five high school students use e-cigarettes and 70% of high school and middle school users report signs of nicotine dependence. (11)

Commercial tobacco use and exposure harm the health of vulnerable and disproportionately impacted populations:

- Eliminating locations where commercial tobacco use is allowed will help reduce health disparities and inequities experienced by racially and ethnically diverse communities, low-income communities and other marginalized communities.
- African Americans, American Indians, two-spirit, lesbian, gay, bisexual, transgender and queer (2SLGBTQ+) individuals, women, youth, low-income populations and other systemically marginalized communities are disproportionately impacted by the harms of commercial tobacco and targeted by the commercial tobacco industry.
- Commercial tobacco use is a major contributor to the three leading causes of death among African Americans - heart disease, cancer, and stroke. (12)
- Both commercial tobacco-related cancer incidence and death rates are higher for African Americans than other racial/ethnic groups. (13)
- In Minnesota, 59% of American Indian adult's smoke commercial tobacco, compared to 14.5% of Minnesota's overall adult population. (14)
- Lung cancer is also the leading cause of cancer death for Minnesota's American Indian community. (15)
- Lower-income populations have less access to health care, making it more likely that they are diagnosed at later stages of diseases and conditions. (16)
- 2SLGBTQ+ individuals are less likely to have health insurance than straight individuals, which may negatively affect health as well as access to cessation treatments, including counseling and medication. (17)

Waste from commercial tobacco products that can harm human and animal health and the environment:

- Cigarette butts are a very common form of litter found in parks and recreation areas. Discarded cigarettes contain arsenic, lead and other toxic chemicals that pollute the land and water and may be ingested by toddlers, pets, birds, or fish. (18)
- E-cigarette-related waste is potentially a more serious environmental threat than cigarette butts because it contains metal, circuitry, single-use plastic cartridges, batteries, lead, mercury and toxic chemicals in e-liquids. (19)
- Litter from commercial tobacco products impacts valuable maintenance resources to clean-up.

As of February 2022, at least 27 local governments in Minnesota, including 20 cities and five counties, have enacted ordinances that prohibit or restrict smoking and/or the use of commercial

tobacco products in specified outdoor areas, and three counties (Blue Earth, Redwood and Hennepin) have adopted policies that prohibit smoking and the use of all commercial tobacco products, including electronic delivery devices, by all persons in and on all property that the counties have authority to control. The Ramsey County Smoking and Commercial Tobacco Use Ordinance would align Ramsey County with best practices in reducing commercial tobacco use.

The Ramsey County Board of Commissioners has previously taken actions to regulate commercial tobacco use to promote public health and community well-being as additional data and information about the harmful effects of smoking have emerged. This includes adoption of the Ramsey County Clean Indoor Air Ordinance in 2015 and the Ramsey County Menthol Resolution in 2017.

The Ramsey County Home Rule Charter section 5.01.A.1 requires that certain acts of the Ramsey County Board shall be by ordinance, including: "Establish, structure, merge or abolish any county department, office, agenda, board or commissions, except as provided for in this charter."

Recommendation:

The Ramsey County Board of Commissioners resolved to:

Adopt the Ramsey County Smoking and Commercial Tobacco Use Ordinance.

A motion to approve was made by Commissioner Ortega, seconded by Commissioner McDonough. Motion passed.

Aye: - 6: Carter, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

Absent: - 1: Frethem

By: 

Mee Cheng, Chief Clerk - County Board

Ramsey County Smoking and Commercial Tobacco Use Ordinance

1.00 This Ordinance will be known as the "Ramsey County Smoking and Commercial Tobacco Use Ordinance."

2.00 Purpose

2.01 The main objectives of this Ordinance are:

- A. To protect the health of the people of Ramsey County from the negative effects of commercial tobacco while in public places and places of employment.
- B. To affirm the right of people to breathe air without secondhand smoke.
- C. To reduce commercial tobacco use and exposure in children, youth and young adults.
- D. To protect the health of vulnerable and disproportionately impacted populations.
- E. To reduce waste from commercial tobacco products that can harm human and animal health and the environment.

3.00 Authority

The Ramsey County Board of Commissioners is authorized to adopt this Ordinance by Minnesota Statutes sections 144.414, subd. 5(b), 144.417, subd. 4(a), and chapters 145A and 375, the Home Rule Charter for Ramsey County, and other applicable legislation, as may be adopted or amended from time to time.

4.00 Jurisdiction

4.01 This Ordinance applies throughout all of Ramsey County.

4.02 Nothing in this Ordinance will prevent cities and townships within Ramsey County from adopting stricter rules to protect people from smoking or commercial tobacco products.

4.03 Nothing in this Ordinance authorizes smoking or the use of commercial tobacco products in any location where smoking or the use of commercial tobacco products is restricted by other laws.

5.00 Definitions

For purposes of this Ordinance, the following definitions apply, unless the context clearly indicates a different meaning. Any term that is not defined will be interpreted as the commonly understood meaning.

5.01 County staff. County staff and service providers include but are not limited to: employees; independent contractors; contractors; vendors; consultants; volunteers; and elected and appointed officials.

5.02 Electronic delivery device. Any product containing or delivering nicotine, lobelia or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or

under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any “drug,” “device,” or “combination product” as defined in the Federal Food, Drug, and Cosmetic Act that has been authorized by the United States Food and Drug Administration for sale as a tobacco cessation product, a tobacco dependence product, or for other medical purposes.

5.03 Minnesota Clean Indoor Air Act. Minnesota Statutes Sections 144.411 to 144.417, as amended from time to time.

5.04 Place of employment. “Place of employment” as defined in Minnesota Statutes Section 144.413, subd. 1b, as amended from time to time.

5.05 Public place. “Public place” as defined in Minnesota Statutes Section 144.413, subd. 2, as amended from time to time.

5.06 Smoking. Inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or any other lighted or heated product containing, made or derived from nicotine, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking will also include carrying or using an activated electronic delivery device.

5.07 Commercial tobacco product. Any product containing, made, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including, but not limited to, cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Commercial tobacco products do not include traditional or ceremonial tobacco plant material used as part of an American Indian cultural practice or a lawfully recognized religious, spiritual or cultural ceremony or practice or any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

5.08 Commercial tobacco product use. The act of smoking or the consumption of any commercial tobacco product.

6.00 Prohibitions and Exceptions

6.01 Prohibitions

A. Smoking is not allowed in indoor public places and places of employment as defined by the Minnesota Clean Indoor Air Act.

B. Smoking and commercial tobacco product use are not allowed at any time by any person on any property that is owned, leased, rented, contracted or otherwise used or controlled by Ramsey County. This prohibition includes but is not limited to, all facilities; grounds; parking lots; work areas, vehicles and equipment; walkways, paths and trails; park and recreation areas, lands and bodies of water; public golf courses, playgrounds, beaches, swimming pools, nature areas and recreation centers.

C. Smoking or commercial tobacco product use is not allowed in personal vehicles parked on property that is owned, leased, rented, contracted or otherwise used or controlled by Ramsey County.

D. Except as provided in Section 5.03, smoking is not allowed within twenty-five (25) feet of entrances, exits, windows and ventilation intakes of public places and places of employment.

6.02 Exceptions. The prohibitions in Section 6.01 do not apply to the following places or situations:

A. The proprietor of a food establishment may set aside an outdoor dining or bar area of a food establishment for smoking. This may be done if this location is appropriately signed as a smoking area, and the area is not immediately next to a building entrance.

B. Members of the public passing through on an outdoor street, alley or sidewalk where smoking is prohibited by this Ordinance, while on their way to another location.

C. Use of tobacco as part of an American Indian cultural practice or a lawfully recognized religious, spiritual or cultural ceremony or practice. Sacred, traditional use of tobacco for prayer, ceremony and memorial is allowed.

7.00 Enforcement

A. No person or employer can permit smoking in an area they control where smoking is prohibited by this or any other law.

B. No County staff can permit smoking or commercial tobacco product use in any area that is under the control of Ramsey County and in which smoking or commercial tobacco product use is prohibited by this or any other law.

C. County staff may check property that is owned, leased, rented, contracted or otherwise used or controlled by the County to make sure this Ordinance is not violated. Any person who violates this Ordinance will be reminded of its requirements and asked to immediately stop smoking or using commercial tobacco products. Any person who does not stop smoking or using commercial tobacco products will be asked to immediately leave Ramsey County property.

8.00 Violations and Penalties

A. **Citations.** Where appropriate, the preferred method of enforcement will be a request for voluntary compliance. Whenever any person authorized to issue administrative citations for the violation of law, discovers a violation of this ordinance, an administrative citation may be issued to the person alleged to have committed the violation. The administrative citation will be issued to the person charged with the violation, or in the case of a corporation or municipality, to any officer or agent authorized to accept such issuance.

B. **Civil administrative fine.** Any person who violates this Ordinance by smoking or engaging in commercial tobacco use anywhere it is prohibited, and who does not immediately stop when asked to, may be issued an administrative citation according to the Ramsey County Administrative Ordinance. Fine amounts vary depending on violation. Refer to the Ramsey County Smoking and Commercial Tobacco Use Ordinance Violations Fine Schedule for detailed amounts.

C. **Proprietors.** Any proprietor, person or entity that owns, leases, manages, operates or otherwise controls the use of an area in which smoking and commercial tobacco product use is prohibited, and that knowingly does not comply with this Ordinance, may be issued a civil penalty. Fine amounts vary depending on violation. Refer to the Ramsey County Smoking and Commercial Tobacco Use Ordinance Violations Fine Schedule for detailed amounts.

D. **Repeat violations.** Each day a violation occurs or continues will be considered a separate offense. Repeat or ongoing offenses may result in an administrative citation per day, as well as trespass from Ramsey County property.

E. **Ramsey County licensees.** Failure to comply with this Ordinance may be a basis for adverse action for licenses issued under Ramsey County ordinances.

9.00 Severability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the Ordinance. The Board of Commissioners hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

10.00 Previous Ordinance

Upon the Effective Date of this Ordinance, the Ramsey County Clean Indoor Air Ordinance, B2015-302, adopted September 22, 2015, effective November 29, 2015, is repealed.

11.00 Effective Date

This amendment of the Ordinance will be effective upon passage by the Ramsey County Board of Commissioners and its publication in accordance with law.