

Township Council planning to raise smoking age to 21

By Sean Quinn
Staff Writer

The West Orange Township Council approved two ordinances on first reading during its March 22 meeting to increase the age of customers to whom vendors can sell tobacco products in town to 21, and requiring vendors who sell e-cigarettes to be licensed by the township.

Both ordinances were passed by 4-1 votes, with Councilman Joe Krakoviak being the sole vote against them. They will next be heard on second and final reading at the council's April 19 meeting, though they would not take effect until July 1, if approved.

This is not the first time the council has weighed in on increasing the smoking age; a similar measure championed by Councilman Jerry Guarino was rejected earlier this year by a council majority, who felt that the ordinance was too ceremonial in its language. But that did not discourage Guarino, who worked with the township legal department and the New Jersey Global Advisors on Smokefree Policy to produce these new ordinances featuring stronger enforcement and a means of funding.

Guarino is now pleased that the council is once again considering raising the legal age at which on can be sold cigarettes, e-cigarettes and other tobacco products, saying before the vote that West Orange should take a stand against youth smoking.

"It's another quality of life issue, particularly for our young residents," Guarino

said. "Cigarette smoking is becoming such a hazard to their long-term health. I feel it's something that needs to be addressed."

The age ordinance will seek to do just that by amending town law to mandate that no person shall sell, distribute or give any sort of tobacco-related products to anyone under the age of 21 — two years more than the current state-mandated cutoff age of 19. Additionally, the measure requires that sellers sign a statement confirming that they have read all state and municipal laws regarding smoking, and that every sale be made in person.

Other provisions in the age ordinance include the requirement that all vendors display a sign informing shoppers that the sale of tobacco products to anyone under 21 is illegal in West Orange. Furthermore, it contains a mandate that tobacco product vending machines must be located on a premises that only people over the age of 18 can access, and operated by an employee over the age of 18 using a device or switch separate from the machine. Any people seeking to purchase tobacco products from a vending machine also need to supply written proof to the employee that they are at least 21, according to the ordinance.

Any vendor who violates the age ordinance will receive a summons and complaint from either the township health officer or a police officer. If convicted, the measure calls for a fine of no less than \$125 for a first violation, no less than \$500 for a



Photo by Sean Quinn
Jessica Buffman, an attorney from municipal counsel Trenk-DiPasquale who helped prepare the ordinances to raise the smoking age, addresses the council.

second violation and at least \$1,000 for any violation thereafter. Additionally, the vendor may have any township license suspended, revoked or fined, while any repeat offender could be charged with maintaining a nuisance in municipal or superior court.

Meanwhile, the licensing ordinance states that no one in West Orange can sell, distribute or give e-cigarettes without obtaining a license from the township at a cost of \$1,200. It further mandates that all

licenses will expire on May 31 each year, unless otherwise revoked, and that no license can be transferable by sale or any other means. Vendors are also required to make their licenses visible in shops, according to the ordinance.

If the West Orange Health Department or any other municipal official finds a vendor to be in violation of the ordinance, the measure specifies that the vendor should be ordered to stop selling e-cigarettes immediately and fined between \$1,200 and \$2,500, with the possibility of having their license suspended, revoked or fined if it is ruled that the vendor broke the law.

The monies obtained from licensing fees will be used by the township to fund the education and enforcement of the ordinance as well as the state's Tobacco Age of Sale Enforcement Program — an initiative in which underage teens are employed to try to purchase tobacco products from vendors to see which ones will comply with the law's age restriction. Both ordinances also state that the money received from fines will be used by the township to fund education about and enforcement of the measures.

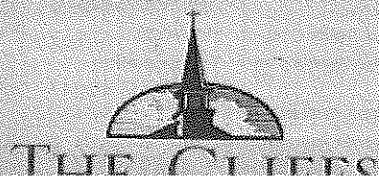
The reason these ordinances are necessary, according to the the age measure, lies in the facts about smoking. According to the Centers for Disease Control and Prevention, cigarette smoking causes roughly one in every five deaths in the United States per year, and the U.S. Surgeon General

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Cigarette vendors in WO may soon see regulatory changes

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states that more than 1,200 people die each day due to smoking. Yet many young people continue to smoke — in fact, according to the Institute of Medicine, 90 percent of smokers started using tobacco before they turned 21.

And e-cigarettes are growing in popularity among young people, with the CDC reporting that use of the electronic devices among middle and high school students tripled from 2013 to 2014, rising from approximately 120,000 to 450,000 middle school students and approximately 660,000 to 2 million high school students. In addition, a 2015 study by the University of Pittsburgh and the Dartmouth-Hitchcock Norris Cotton Cancer Center found that teens who use e-cigarettes are more likely to smoke actual cigarettes later than those who do not.

Increasing the smoking age could be an effective response to these trends, according to the Institute of Medicine, which says raising the minimum age to be sold tobacco products to 21 would significantly reduce smoking rates, so much so that there will be 223,000 fewer premature deaths; 50,000 fewer deaths from lung cancer; and 4.2 million fewer years of life lost for persons born between 2000 and 2019.

Those statistics affected Councilwoman Susan McCartney enough to support the proposed ordinances, as she explained prior to voting. She added that she also

liked knowing that several other New Jersey municipalities have already increased their smoking ages to 21 — Jessica Buffman, an attorney from municipal counsel Trenk-DiPasquale who helped prepare the ordinances, told the council that 16 towns had done so as of that meeting — since they can serve as models for West Orange in implementing these ordinances.

Council President Victor Cirilo was also impressed with the ordinances, commending Buffman, the administration and NJ GASP for their efforts in improving upon the previous smoking measure that went before the council to produce two measures with a much greater chance of being approved.

"You took a ceremonial proposal, which was presented to us last time, and put together a proposal that has a funding stream and a proposal that has enforcement behind it," Cirilo said. "Now we have something solid that we can consider."

Krakoviak, on the other hand, did have a few minor concerns about the ordinances — specifically the reference to the Tobacco Age of Sale Enforcement Program in the licensing measure. Since the ordinance was about the regulation of e-cigarettes, the councilman questioned whether it should make clear that the program's sting operations would cover the sale of cigarettes as well as e-cigarettes. But township business administrator Jack Sayers said such clarification would not be necessary since all vendors would be told exactly what to expect

'Now we have something solid that we can consider.'

— Victor Cirilo

once they purchase their licenses and receive their signs.

If the council approves the ordinances on second and final reading, West Orange will join the more than 100 U.S. cities in nine states to increase the legal age to 21 to be sold tobacco products, including New York City and Chicago. The 16 New Jersey municipalities that have already made the change include Princeton, East Rutherford and Teaneck.

In fact, New Jersey almost became the second state in the nation, after Hawaii, to adopt 21 as the statewide smoking age, with a bill for that purpose passing both the state Assembly and Senate. But Gov. Chris Christie vetoed that bill on Jan. 19, coincidentally the same day that Guarino's original ordinance was voted down by the council.

Still, New Jersey anti-smoking activists remain hopeful that municipalities like West Orange will increase their local smoking laws. In addition to preventing young people from smoking — which is responsi-

ble for more than 480,000 deaths per year, according to the surgeon general — advocates also point out that raising the smoking age to 21 could save a lot of money in health care costs. The Surgeon General reports that smoking can be attributed to \$130 billion in annual medical costs nationally.

But many food retailers have come out against the notion of raising the smoking age, arguing that doing so would cause a massive reduction in ancillary sales of items that smokers would purchase when buying cigarettes. E-cigarette companies also point out that lumping their devices in with other tobacco products for smoking age laws is unfair since e-cigarettes could be used as a healthier alternative for young people seeking to quit smoking regular cigarettes. Plus, opponents stress that fewer people legally allowed to purchase tobacco products will lead to a loss in sales taxes for the state, with the state Office of Legislative Services estimating that New Jersey specifically will lose \$16.2 million.

In addition, critics point out that increasing the smoking age will not necessarily prevent people under 21 from finding cigarettes by other means, although West Orange's ordinance would make it illegal for anyone 21 and older to provide those underage with tobacco products. Additionally, they argue that since 18 is the minimum age to join the military and vote, it should also be the minimum age for buying tobacco products.

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