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# MEMORANDUM

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Date: August 13, 2018

To: The Honorable Chairman and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Tobacco 21 Program**

Please see the attached August 6, 2018 memorandum from Health Department Director Marcy Flanagan regarding the Tobacco 21 Program: a strategy to prevent anyone under the age of 21 from purchasing tobacco products. There have been a number of community discussions regarding a range of approaches to prevent tobacco use especially among young people. Last week the Tucson City Council held a study session in which city staff were directed to continue to assess the feasibility of implementation. The Health Department and has assessed a variety of approaches including Tobacco 21, and the Board of Health has reviewed this information and may bring an ordinance for consideration by the Board of Supervisors.

The current tobacco prevention program as operated by the Health Department is funded with state tobacco tax dollars. It focuses on youth and adult tobacco prevention, education, cessation referral and chronic disease prevention. Such resources have restrictions and based on the feedback of the Arizona State Department of Health are not available for advocacy nor for the actual enforcement of such an ordinance. Implementation of Tobacco 21 strategy in Pima County will require identifying revenue to offset the potential expenses associated with this new enforcement approach.

The Health Department welcomes the opportunity to collaborate with stakeholders to better understand the consequences of tobacco addiction and develop innovative evidence-based strategies for this important health hazard.

CHH/anc

Attachment

c: Jan Leshner, Chief Deputy County Administrator  
Dr. Francisco Garcia, Assistant County Administrator for Community and Health Services  
Marcy Flanagan, Director, Pima County Health Department

Date: August 6, 2018

To: C.H. Huckelberry  
County Administrator

From: Marcy Flanagan, Director   
Pima County Health Department

Via: Jan Leshner   
Chief Deputy County Administrator

Dr. Francisco García   
Assistant County Administrator

Re: Response to Mr. Huckelberry's 07/09/18 Memorandum

Per the County Administrator's request dated July 9, 2018, attached please find an overview and information related to Tobacco 21.

**Background**

The Pima County Health Department's Tobacco and Chronic Disease Prevention Program (TCD) serves the community as a resource for current and relevant data regarding the risks associated with tobacco usage. The TCD team provides information regarding prevention measures to help reduce tobacco and nicotine initiation among the youth, reduce the number of adult tobacco users, and provide community organizations and coalitions with tools and resources to leverage community engagement and mobilization using evidence-based strategies.

This past spring the Health Department Tobacco Prevention Program met with the Preventing Tobacco Addiction Foundation to discuss strategies to connect with local community leaders and organizations to introduce the concept of Tobacco 21 in Pima County. This initiative raises the minimum legal age for purchasing tobacco products to 21 with a goal to prevent youth nicotine addiction and harm.

During the April 2018 Board of Health meeting a representative from the Foundation gave a presentation regarding Tobacco 21. The Board of Health gave positive feedback and requested an update regarding progress at a future meeting. In addition, a few members of the Board of Health wrote proposed language for a resolution to support Tobacco 21 that they intended to present to the Board of Supervisors. This action was scheduled to take place at the July meeting, which was canceled.

**Response**

In response to a variety of inquiries, you posed the following questions in the July 9, 2018 memo:

***Does the County have the ability to enact a restriction on the purchase age of tobacco?***

Pima County Health Department has consulted with Jonathan Pinkney of the Pima County Attorney's Office on this matter. According to the County Attorney, the county has authority to enact an ordinance under its general public health authority, A.R.S. § 11-251(17).

C.H. Huckelberry, County Administrator  
**Re: Tobacco 21**  
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There is no indication in the statute prohibiting tobacco sales to minors, A.R.S. § 13-3622, that the state considers this to be an issue of statewide concern or intends to preempt local action. Nor is the issue listed in Title 11 as one of the areas in which counties are prohibited from imposing further regulation. Moreover, because § 13-3622 cannot reasonably be read as giving anyone who is not a minor the right to buy tobacco, there is no conflict between that statute and an ordinance prohibiting tobacco sales to persons under 21 years of age.

***Have efforts been made to discuss such an ordinance with the business community, including the Small Business Commission?***

The Health Department's Tobacco and Chronic Disease Prevention staff have only participated in a single Hispanic Chamber of Commerce – Health Sub-Committee meeting. Eric Brodell, former Western States Regional Director for *Tobacco 21 and Preventing Tobacco Addiction Foundation*, provided a 10-minute presentation for Health Sub-Committee meeting attendees on May 16, 2018. At that meeting, the Health Sub-Committee Co-Chair and Hispanic Chamber CEO requested additional Tobacco 21 information for member distribution. To date, this is the only contact that has been made specifically with the business community which has involved the Health Department.

As part of these types of coalition efforts, the Health Department staff provides content expertise, education and insight on local youth tobacco use data and trends, tobacco retail compliance figures, policies, and ordinances. Staff also provide details on community-based resources and strategies for tobacco education, prevention, outreach, cessation, and second-hand smoke exposure. Health Department staff have also helped to facilitate communication between interested groups to better establish a network of resources that address the tobacco and nicotine addiction issues facing our youth.

The Preventing Tobacco Addiction Foundation (PTAF), Pima County Tobacco Prevention Youth Coalitions, Pima Prevention Partnership and our own Health Department (Tobacco and Chronic Disease Prevention Team) staff have met jointly with community stakeholders to review youth use of tobacco products in Pima County schools and local tobacco prevention initiatives. These include:

- Councilmember Cunningham and Durham's Office
- City of Tucson Mayor
- Tucson Police Department Assistant Chief of Police
- City of Tucson City Manager and Staff
- Professional Fire Fighters Association
- American Heart Association

**Conclusion**

The Pima County Health Department staff who are funded through Prop 200/Prop 303 funds, which are tobacco tax dollars allocated for tobacco prevention, education, cessation and chronic disease, cannot work on activities related to Tobacco 21 advocacy. However, the Health Department does have subject matter expertise in this area that we continue to share with our community partners.

The City of Tucson has indicated that they will be starting a subcommittee to examine the potential adoption of a city ordinance to support Tobacco 21. Given the majority of tobacco sales in Pima County occur within

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City limits this may be an impactful strategy. Staff will continue to track discussions and actions surrounding the City ordinance, and will assess whether Pima County adopting such a code aligns with other jurisdictions within the County. We await guidance and input from the Board of Health on this topic and stand ready to provide support and technical expertise to them and the BoS should they ask for it.