

**From:** "Rick Gundermann, MHS"  
**Subject:** Zoning Proposal  
**Date:** April 1, 2015 at 11:18:23 AM CDT

Dear Ms. Hamilton-Nisbet,

I am emailing to encourage you to vote against Mayor Soglin's proposal to change zoning pertaining to what he refers to as "Tobacco Retailers".

The new zoning proposal seems directed mostly at electronic cigarette stores, and I think it has some serious (perhaps) unintended consequences.

The proposal unfairly lumps tobacco shops and e-cigarettes stores together, even if an e-cigarettes shop sells no tobacco whatsoever. Meanwhile a convenience store that sells both tobacco and e-cigs is given a pass.

Under the proposal tobacco shops or e-cigarette stores could not be located within 1,000 feet of any number of other establishments, including schools, parks, libraries, and other tobacco retailers.

Tobacco retailers could also not be sited within 500 feet of any store that sells tobacco. Effectively, 90% of the city would be off limits to a tobacco retailer. So, while current stores would be grandfathered in, this would make it difficult, if not impossible, for a tobacco retailer to open a new store or move their current store. One can see a case where landlords raise rents to tobacco shops, knowing they can't move (within Madison).

Meanwhile, convenience stores, gas stations, grocery stores, liquor stores and pharmacies would have no restrictions whatsoever. This seems especially unfair considering that there were no cases of tobacco stores selling to minors in 2014, while there were 61 cases of other stores selling to minors. (See attached.)

If the zoning change goes through, e-cigarette stores and tobacco shops, who card everyone who comes into their store (and who had zero cases of selling to minors) would be penalized severely. Other stores that sell tobacco, electronic cigarettes, and beer and don't card customers until they make a purchase (sometimes not checking ID's at all) would not only not be penalized, they would see their competition being forced out of their area.

Another unfair aspect of the proposal is that it defines stores by the square footage devoted to tobacco or e-cigarettes, and doesn't define stores by sales of tobacco products. So a convenience store that sells a larger dollar volume of tobacco/e-cigarettes than a vape shop is not restricted simply because it has a larger overall area.

I have emailed the Mayor to ask him to explain his thinking behind this proposal, but he has declined to answer.

I expect the Mayor will adjust his proposal to somewhat less draconian distance requirements, but I would suggest that the proposal simply makes no sense at its heart.

Thank you for your consideration.

Rick Gundermann, MHS



## 2014 Madison & Dane County Tobacco Vendor Compliance Report

### Compliance Check Results:

330 tobacco retailers within Madison and Dane County were checked for sales of tobacco products to minors in 2014. A total of 51 underage sales were made resulting in an overall sales rate of 15.5% in both the City of Madison and Dane County (Table 1). 2014 saw the highest tobacco sales to minors' rate in over 6 years (Table 2). It is also important to point out that the highest sales rate among vendors was pharmacies—with all sales except one occurring at Walgreens stores.

The City of Madison had a sales rate of 17.9%, while the rest of Dane County had a sales rate of 13.2%. Even when separated out, these are the highest sales rates that have occurred in over 6 years in both jurisdictions (Table 3).

The majority of tobacco retailers in the City of Madison and Dane County that passed their inspections should be congratulated for consistently checking identification and refusing to sell tobacco to minors. Tobacco retailers are the first line of defense in limiting youth access to tobacco.

Table 1

2014 Madison & Dane County Compliance Checks				
Vendor Type	Number of Inspections	Number of Sales	Sales Rate (%)	Compliance Rate (%)
Gas/Convenience	189	30	15.9	84.1
Liquor	32	4	12.5	87.5
Grocery	34	5	14.7	85.3
Pharmacy	35	11	31.4	68.6
Department Store	9	0	0	100
Bar/Restaurant	19	0	0	100
Tobacco/Smoke Shop	10	0	0	100
Bowling Alley	0	0	n/a	n/a
Resort/Campground	0	0	n/a	n/a
Other	1	1	100	0
<b>Total</b>	<b>329</b>	<b>51</b>	<b>15.5</b>	<b>84.5</b>

Table 2

Historical Data—Madison & Dane County Combined				
	Number of Inspections	Number of Sales	Sales Rate (%)	Compliance Rate (%)
2008	788	58	7.4	92.6
2009	402	27	6.7	93.3
2010	280	17	6.0	94.0
2011	300	35	11.7	88.3
2012	232	30	12.9	87.1
2013	313	28	9.0	91.0
2014	329	51	15.5	84.5

Wisconsin WINS is a program of the Wisconsin Tobacco Prevention and Control Program and provides training, media and community outreach, and education to tobacco retailers. Funding for this program was provided by the state of Wisconsin. More information is available online at [www.wiwins.org](http://www.wiwins.org).

Table 3

Historical data—Madison and Dane County Separated								
City of Madison					Dane County (excluding Madison)			
	Number of Inspections	Number of Sales	Sales Rate (%)	Compliance Rate (%)	Number of Inspections	Number of Sales	Sales Rate (%)	Compliance Rate (%)
2008	354	29	8.2	91.8	434	29	6.7	93.3
2009	126	10	7.9	92.1	276	17	6.1	93.9
2010	128	10	7.8	92.2	152	7	4.6	95.4
2011	130	22	16.9	83.1	170	13	7.7	92.35
2012	117	18	15.4	84.6	115	12	10.5	89.5
2013	191	23	12.1	87.9	122	5	4.0	96.7
2014	162	29	17.9	82.1	167	22	13.2	86.8

*This report was prepared by Nina Gregerson, TFCDC—January 2015*

**From:** William Holloway  
**Sent:** Friday, March 27, 2015 9:59 AM  
**To:** Zellers, Ledell  
**Subject:** restrictions of tobacco, vaping businesses

Hi Ledell,

I just read about the proposed restrictions on where new tobacco and vaping businesses can be located (link below) and just thought I'd throw in my 2 cents.

I think preventing new businesses of these types from opening within 1000' of schools or daycare centers might make sense, since lots of kids will inevitably see them and may become interested in their products. However, I think restricting these businesses within 500' of health care facilities and residences is a bridge too far; it's hard to find locations that are not within 500' of someone's residence and I can't see how this is really a health or safety issue. Maybe the best course of action would be to treat these types of businesses in the same way that liquor stores are treated - both sell products we don't want kids using but neither gives off fumes/odors that would impact neighboring properties.

-Bill Holloway

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From: Dave Hohisel  
Date: 03/25/2015 10:41 PM (GMT-06:00)

Subject: Zoning Ordinance

It's imperative that these zoning laws be looked over and changed. While I agree tobacco and vaping products need to be away from certain areas and age groups. These laws will squeeze the life out of a community I and many others are part of. While vaping products contain nicotine they do not contain any tobacco. Big tobacco and the media shed a dark light on these products because it cuts into their profits. Tobacco companies have taken many lives and vapor products are saving them. Please reconsider your stance it will hurt many people. The below picture is not intended to insult but to inform. Thank you for your time.  
David J Hohisel Jr.

**From:** Lisa Bell

**Subject:** The City's zoning code currently permits tobacco shops in the NMX, TSS, MXC, CC-T, and CC districts. Vaping Shops

**Date:** March 25, 2015 at 7:10:22 PM CDT

**To:** undisclosed-recipients.;

To The Committee of Madison, Wisconsin (Zoning Ordinance):

"The Common Council of the City of Madison do hereby ordain as follows: 1. Section 28.211 entitled "Definitions" of the Madison General Ordinances is amended by creating therein the following: "Tobacco Paraphernalia. Tobacco paraphernalia means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco products. Tobacco paraphernalia includes electronic cigarettes, personal vaporizers, electronic nicotine delivery systems, or any item designed to atomize liquid solutions that simulate smoking. Tobacco Retailer. A tobacco retailer is any establishment that either devotes twenty percent (20%) or more of floor area or display area to the sale or exchange of tobacco products or tobacco paraphernalia. Tobacco Products. Tobacco products means any substance containing any tobacco leaf, including but not limited to cigarettes, cigars, bidis, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco. Tobacco products includes e-liquids such as propylene glycol, glycerin, nicotine, flavorings, or other products for use in electronic cigarettes, personal vaporizers, or electronic nicotine delivery systems."

I have relatives, acquaintances and friends in Madison, Wisconsin and have spent considerable amounts of time and money in beautiful Wisconsin.

I am opposed to "Definitions" in the Zoning Ordinance as it pertains to Electronic Cigarettes, Vaporizers, Nicotine Delivery devices (Nicotrol a pharmaceutical product, is also a nicotine delivery device), Ecigs are Adult consumer products that are correctly defined as "Alternatives to Tobacco". I am opposed because I read about this subject and there is no scientific basis for calling them "Tobacco Paraphernalia" what-so-ever.

I began replacing my smoking of Tobacco Cigarettes with Electronic Vaping in 2009. I have been SMOKE-FREE for almost 5 yrs., after smoking for 43 yrs. The availability, accessibility and affordability of these tobacco replacement alternative products are the reason that I am breathing better today. Not only should they not be classified incorrectly, but they shouldn't be zoned away from the public's easy access to them, that would be gravely harmful to public health. The more smokers can be made aware of these "Alternatives to Tobacco", the better the odds of many more smoker's smartly choosing to quit smoking. In fact, Electronic Cigarettes should be in all Hospital Pharmacies and commercial Drug Stores. There should be bill boards that tell smokers there is an alternative product that has been shown to improve people's health and quality of life that is AFFORDABLE & ENJOYABLE!

A wonderful Scientist and advocate for Electronic Vaping, who has spoke before the FDA a number of times has this to say:

Tobacco harm reduction, e-cigarettes, and e-cigarette use: an overview Handout to accompany 18 March 2015 [updated 19 Mar] presentation by: Carl V Phillips, MPP PhD Chief Scientific Officer The Consumer Advocates for Smoke-free Alternatives Association [cphillips@casaa.org](mailto:cphillips@casaa.org) The Consumer Advocates for Smoke-free Alternatives Association (CASAA) is a nonprofit public health NGO dedicated to promoting tobacco harm reduction by preserving access to and providing education about low-risk alternatives to smoking. It is a U.S. membership organization with over forty thousand members, serving as the leading representative of the interests of consumers. CASAA is not affiliated with industry and does not represent their interests. (Material contained in this document may be attributed to either the individual or institutional author. Either is happy to engage in further communication.)

What is tobacco harm reduction (THR)? Tobacco harm reduction is the substitution of low-risk alternatives for smoking. Those low-risk alternatives include electronic cigarettes (e-cigarettes), smokeless tobacco (snus, snuff, chew), and for those who find them satisfying for long-term use, pharmaceutical nicotine products (a.k.a. NRT; nicotine gum, lozenges, etc.). All of these products are estimated to be about 99% less harmful than smoking. The harm reduction ethic is not just about reducing harm, but about respecting the liberty, dignity, and preferences of the individual. Rather than diminishing a person to the role of a patient to impose treatment upon – or worse, to a miscreant, sinner, or criminal to be punished and controlled – harm reduction involves empowering people to make their own best choices and protecting them from those who would punish them for those choices. Their options should include the lower-risk alternatives, and they are strongly encouraged to choose those, but ultimately the decision about what to do with their own bodies is their own. The term “harm reduction” is commonly used in the context of injection drug use (clean needles) or sexual behavior (condoms). But auto safety, because of the absence of moralizing, is perhaps a better way to think about it: We do not tell people to just avoid the dangerous behavior of automotive transport in spite of its benefits, but rather provide them with risk-reducing products (seat belts) and push for safer driving behavior. Indeed, the major contrast between THR and those other areas of harm reduction is the magnitude of the reduction: Available technologies and safer behavior reduce the risks from sex, drugs, and driving by half or a bit more. But THR comes so close to entirely eliminating the risk that there is almost no difference between low-risk product use and complete abstinence from tobacco/nicotine products. So why does there seem to be so much opposition to THR? Opposition to THR comes from a relatively small special-interest group of anti-tobacco activists, but they are high-profile, well funded, and hold key positions of power. When you present the case for promoting THR to the average person, they almost always agree it is a wise approach. Unfortunately, while anti-tobacco efforts started out based on a genuine concern for

people and their health, focusing on making sure people understood the risks of smoking, they have morphed into something altogether different. Many anti-tobacco activists have long-since stopped wanting to rid the world of the harms caused by tobacco use, and simply want to end all tobacco use regardless of how low the risk and how much people like using the products. Their goal is seriously threatened by THR: If people can use tobacco with very little or no health risk, those who derive benefits from it have little reason not to do so. For most of us, there is no apparent problem with people enjoying a low- or no-risk consumption choice. But for those who just want to eliminate all tobacco use – basically for “moral” reasons – it ends all hope. Additionally, many who have spent their careers trying to reduce smoking, to no great effect, resent the fact that the problem may be solved in spite of their efforts rather than because of them. It is just human nature to push back. Less forgivable is the financial motive. Anti-tobacco organizations, and indeed many major health charities, depend on smoking for their funding. Cigarette taxes are funneled to them, and their donations and public support depend on tobacco use being a costly scourge. If tobacco use becomes low-risk, they are out of business. Opponents of THR typically dress up their claims as concerns about health, because stating their real motivations would obviously not play very well, and they do manage to trick many others into repeating their inaccurate health claims. But keeping smokers smoking longer – which is what they are doing – is obviously bad for public health. Their health-based claims are easily and consistently debunked, but they simply keep repeating them, counting on their audiences never learning that they what they are saying has been scientifically shown to be false.

Thank you. I am proud to be an Ex-Smoker, an American Citizen, a voter and friend to many.  
Lisa Bell