

Chapter 8.08

Licensing Of Cigarette Retail Sales

Section 1. License.

A. Application for a cigarette retail sales license shall be made to the City Clerk on a form supplied by the City Clerk. Such application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon filing such application with the City Clerk, it shall be presented to the City Council for its consideration, and if granted by the Council, a license shall be issued by the City Clerk upon payment of the required fee.

B. No license shall be issued to any applicant for sale of cigarettes at any place other than his established place of business. No license shall be issued for the sale of cigarettes at a movable place of business, nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarette, cigarette paper or cigarette wrapper to any person below the age of 18 years. No person shall keep for sale, sell, or dispose of any cigarette containing opium, morphine, jimson weed, balla donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

C. No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the City without first obtaining a license from the City. "Tobacco" is defined as and includes: 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 sweeping of tobacco; and other kinds and forms to tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.

[Source: Minnesota Statutes Section 609.685]

D. The annual license fee for a retail tobacco license shall be in the amount determined by City Council resolution. All retail tobacco licenses shall be valid for one calendar year from the date that the license is issued.

E. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

Section 2. Sales Prohibited to Minors. No person shall sell or offer to sell any tobacco or tobacco product to any person under eighteen (18) years of age.

[Source: Minnesota Statutes Section 608.685].

Section 3. Administrative Penalties.

A. If a licensee or employee of a licensee sells tobacco to a person under the age of eighteen (18) years, or violates any other provision of this ordinance, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 shall be imposed for a second violation at the same location within twenty-four (24) months after the initial violation.

For a third violation at the same location within twenty-four (24) months after the initial violation, an administrative penalty of \$250 shall be imposed, and the licensee's authority to sell tobacco at that location shall be suspended for not less than seven (7) days. No suspension or penalty shall take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the City to conduct the hearing.

[Source: Minnesota Statutes Section 461.12(2)].

B. An individual who sells tobacco to a person under the age of eighteen (18) years shall be charged an administrative penalty of \$50. No penalty shall be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the City to conduct the hearing.

[Source: Minnesota Statutes Section 461.12(3)].

C. It is an affirmative defense to the charge of selling tobacco to a person under the age of eighteen (18) years in violation of this ordinance that the licensee or individual making the sale relied in good faith upon proof of age as follows:

1. A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the license person; or
2. A valid military identification card issued by the United States Department of Defense; or
3. In the case of a foreign national, from a nation other than Canada, by a valid passport.
[Source: Minnesota Statutes Section 461.12(6), Minnesota Statutes Section 340A.503, by reference].

- D. Every such license shall be revoked by the City Council for a violation of any provision of this ordinance if the licensee has been given reasonable notice and an opportunity to be heard.

Section 4. Self-Service Sales.

A. No licensee shall offer for sale single packages of cigarettes or smokeless tobacco or cartons and other multi pack units in open displays which are accessible to the public without the intervention of a store employee.

[Source: Minnesota Statutes Section 461.18 Subdivision 1 (a)].

B. The self-service restrictions described in this Section 4 shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than eighteen (18) years of age.

[Source: Minnesota Statutes Section 461.18, Subdivision 1 (d)].

Section 5. Vending Machine Sales. No person shall sell tobacco products from vending machines. This section does not apply to vending machines in facilities that cannot be entered at

any time by persons younger than eighteen (18) years of age. [Source: Minnesota Statutes Section 461.18, Subdivision 2].

Section 6. Compliance Checks. The City shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minnesota Statutes Section 609.685. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority. [Source: Minnesota Statutes Section 461.12, Subdivision 5].