

ORDINANCE #2018-10, TOBACCO SALES ORDINANCE, AS AMENDED

SECTION 1 PURPOSE, SCOPE, AUTHORITY, AND TITLE

- 1.1 Purpose. It is the purpose of this ordinance to enhance the community's health by preventing the onset of smoking by minors.
- 1.2 Scope. This ordinance relates to the sale of tobacco, tobacco products, and tobacco-related devices and to the illegal sale of such items to minors.
- 1.3 Applicability. Pursuant to Minnesota Statutes §461.12, this ordinance shall apply to those portions of the county in which a city or town does not license retail tobacco sales.
- 1.4 Authority. This ordinance is adopted pursuant to authorization contained in Minnesota Statutes §461.12.
- 1.5 Title. This ordinance may be referred to as the Tobacco Sales Ordinance.

SECTION 2 DEFINITIONS

- 2.1 Definitions and Interpretation. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive.
- 2.2 **Tobacco.** "Tobacco" means cigarettes and any product containing, made, or derived from tobacco 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; 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. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- 2.3 **Cigarette.** "Cigarette" means any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of paper or another substance or material except tobacco.
- 2.4 **Tobacco products.** "Tobacco products" means any products containing, made, or derived from tobacco 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, cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco; but does not include cigarettes as defined in this section. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

- 2.5 **Tobacco related devices.** "Tobacco related devices" means cigarette papers or pipes for smoking, including hookah pipes.

SECTION 3 GENERAL PROVISIONS

- 3.1 **Administrative Procedures Ordinance.** The provisions of the Anoka County Administrative Procedures Ordinance, and any amendments thereto or successor ordinance, shall apply to the administration and enforcement of this ordinance.
- 3.2 **Administration.** This ordinance shall be administered by the Anoka County Community Health and Environmental Services Department. For the purposes of this ordinance the term "Department," where used in this ordinance and in the "Anoka County Administrative Procedures Ordinance," shall mean the Anoka County Community Health and Environmental Services Department.
- 3.3 **Compliance.** The sale of tobacco products shall be in full compliance with the terms of this ordinance.

SECTION 4 LICENSING

- 4.1 **License Required.** Unless a location is licensed by the city or town to sell tobacco, no person shall sell or offer for sale, or otherwise distribute, any tobacco, tobacco product, or tobacco related device at any location in the county without having a valid license from the county.
- 4.2 **Application.** An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the Department. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the Department deems necessary.
- 4.3 **Action.** If the Department finds that the application is complete and that the applicant is in compliance with this ordinance, the Department shall issue the license. If the Department finds that the application is incomplete, the application shall be returned to the applicant with notice of corrections needed to make the application complete. If the Department denies the license, notice of denial shall be given to the applicant together with notice of the applicant's right to appeal the decision.
- 4.4 **License Term.** The license year shall be from September 1-August 31.
- 4.5 **Moveable Place of Business.** No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
- 4.6 **License Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
- 4.7 **License Renewals.** Applications for renewal of a license issued under this ordinance shall be made in writing as provided in section 4.2 and shall be due by July 31 of each year.

SECTION 5 DEPARTMENT AND LICENSEE RESPONSIBILITY

- 5.1 **Licensee Responsibility.** The licensee shall be responsible for compliance with the provisions of this ordinance. The licensee shall be responsible for the actions of its employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the county from also subjecting the

employee to whatever penalties are appropriate under this ordinance, state or federal law, or other applicable law or regulation.

5.2 Department Responsibility.

- A. Notice of Violation. Upon discovery of a violation of this ordinance, the Department shall notify the violator, either personally or by mail, of the violation and the violator's right to a hearing.

SECTION 6 SALES PROHIBITED TO MINORS

- 6.1 Sales Prohibited. No person shall sell, offer to sell, or distribute any tobacco or tobacco product to any person under eighteen (18) years of age.

SECTION 7 PENALTIES

7.1 Administrative Penalty.

- A. If a licensee or employee of a licensee sells tobacco, tobacco products or tobacco related devices to a person under the age of 18 years, or violates any other provision of this ordinance, the Department shall assess the licensee an administrative penalty of \$75. An administrative penalty of \$200 shall be imposed by the Department for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 shall be imposed by the Department, and the license to sell tobacco, tobacco products and tobacco related devices at that location shall be suspended by the Department for not less than seven days.
- B. An individual who sells tobacco, tobacco products or tobacco related devices to a person under the age of 18 years shall be assessed an administrative penalty of \$50 by the Department.

- 7.2 Affirmative Defense. It is an affirmative defense to the charge of selling tobacco to a person under the age of 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:

- A. 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 licensed person; or
- B. A valid military identification card issued by the United States Department of Defense; or
- C. In the case of a foreign national, from a nation other than Canada, by a valid passport.

- 7.3 Appeals. Appeals of notice of violation (section 5.2 A.), or license suspension, revocation, or denial shall be heard by the Director of the Department or the Director's designee. The Director or designee may uphold, reject, or modify the action which is being appealed. The Director's or designee's action is final, except as may be provided by law.

- 7.4 Injunctive Relief. In the event of a violation or threatened violation of this ordinance, the county may institute appropriate actions or proceedings, including injunctive relief to prevent, restrain, correct, or abate such violation or threatened violation.

- 7.5 Misdemeanor. Any person who violates Section 4.1 of this ordinance is guilty of a misdemeanor.

SECTION 8 AMENDING AND REPEALING PRIOR ORDINANCES:

8.1 The enactment of this ordinance repeals and replaces Anoka County Ordinance No. 98-3, adopted in 1998 and Ordinance No. 2010-1 adopted on October 26, 2010.

SECTION 9 EFFECTIVE DATE

9.1 Effective Date. This ordinance shall become effective upon approval by the Anoka County Board of Commissioners.

Ordinance # 98-3 adopted May 26, 1998.

Ordinance #10-1 adopted October 26, 2010.

Adopted by the Board of Commissioners of Anoka County, Minnesota, the 9th day of October 2018.