



APPLICATION FORM FOR
TOBACCO LICENSE

Dear Applicant:

Thank you for your interest in obtaining a tobacco license in Coon Rapids. All application materials must be completed before your application will be processed. Upon receipt of the completed application, the Police Department will conduct an investigation on the applicant (and store manager, if different from applicant).

After the investigation is completed, the application and background investigation will be reviewed by the City Clerk. Depending on the length of the investigation and review by the City Clerk, the process may take up to 30 business days to complete.

Attached are the forms you will need to complete. If the store manager is different from the applicant, the "Store Manager - Authorization of Release of Data" form must be completed. A copy of the City Code regarding tobacco and general licensing provisions are also provided.

All fees are due when the application is submitted. The fee for a tobacco license is \$170 annually and may be pro-rated monthly. There is also a non-refundable investigation fee of \$120 for a new tobacco license. Checks should be made payable to City of Coon Rapids. In the event a license is denied, the license fee will be refunded.

If you have questions about the forms, regulations or the process, please feel free to contact this office at 763-767-6432.

Kris Linqvist, CMC
Deputy City Clerk



License #: _____

Receipt #: _____

Date: _____

Fee Paid: _____

APPLICATION FOR LICENSE TO SELL TOBACCO PRODUCTS OVER THE COUNTER ONLY

Photo ID:

I, the undersigned, hereby make application for a Tobacco license to be issued to me,

(First) (Middle) (Last)

(Current house number and street name) (City, State, Zip Code)

(Name of Corporation if applicable)

Home telephone: _____ Date of Birth: _____,

to sell tobacco, tobacco papers and wrappers at retail over the counter only, at:

_____, _____
(Name of Business) (Address of Business)

Type of Business _____ Business telephone _____

Store Manager _____

***if different from applicant, store manager must fill out authorization for release of data form**

in the City of Coon Rapids, Anoka County, Minnesota, subject to the laws of the State of Minnesota and the ordinance and regulations of said City of Coon Rapids pertaining thereto.

Within the last five years have you been convicted of violating any federal, state or local law relating to the sale of tobacco, tobacco products or tobacco related devices? Yes; No. If yes, please describe the circumstances, including the date and location.

Within the 24 months preceding this application, have you had a license to sell tobacco, tobacco products or tobacco related devices suspended or revoked by any jurisdiction? Yes; No. If yes, please describe the circumstances, including the date and location.

List business names and complete addresses where you currently hold or have previously held a license to sell tobacco:

Attached is a photocopy of my driver's license or other state issued identification card.

City Code Section 5-912 prohibits the sale of tobacco products through the use of any type of vending machine.

Investigation Fee: \$120.00 (non-refundable)
License Fee: \$170.00 Annually

(Signature of Applicant)

**MINNESOTA WORKERS' COMPENSATION LIABILITY
CERTIFICATE OF COMPLIANCE**

Minnesota Statute, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in an activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Chapter 176.181. The information required is: the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. This information will be collected by the licensing agency and retained in their files.

This information is required by law, and licenses and permits to operate a business may not be issued or renewed if it is not provided and/or is falsely reported. Furthermore, if this information is not provided or falsely stated, it may result in a \$2,000 penalty assessed against the applicant by the Commissioner of the Department of Labor and Industry.

Insurance Company Name: _____ Phone # _____
(**NOT** the insurance agent)

Policy Number: _____ Dates of Coverage: _____ to _____

-OR-

I am not required to have workers' compensation liability coverage because:

- I have no employees.
- I am self-insured (include permit to self insure).
- I have no employees who are covered by the worker's compensation law (these include: Spouse, Parents, Children and certain farm employees).

* * * * *

Name: _____
(last, first, middle)

Doing Business As: _____
(business name if different than your name)

Business Address: _____

City, State, Zip: _____ Phone: (____)____-_____

I certify that the information provided above is accurate and complete and that a valid workers' compensation policy will be kept in effect at all times as required by law.

Signature: _____ Date: _____

**TOBACCO LICENSE APPLICATION
AUTHORIZATION OF RELEASE OF DATA**

In order to comply with State and Federal Data Privacy Acts, the City of Coon Rapids is required to ask the following information. This authorization expires one year from date of application.

PLEASE PRINT:

Full First	Middle	Last	Driver's License Number
Home Street Address			Date of Birth (MM/DD/YY)
City	State	Zip	Day Telephone Number
Organization Associated With			Evening Telephone

Have you ever been convicted of any crime, either felony or misdemeanor? Yes; No. If yes, state nature and location of offense(s): _____

Have you ever been convicted of any traffic offense? Yes; No If yes, state nature and location of offense(s):

I, the undersigned, have made a license application with the City of Coon Rapids. Realizing the City has need to investigate my background and history in order to better evaluate my application, I hereby authorize and request every law enforcement official and every other person, firm, officer, corporation, association, organization or institution having control of any documents, records or other information pertaining to me to furnish the original or copies of any such documents, records and other information to the City, and to permit said City or any of its representatives to inspect and make copies of any such documents, records and other information. I further authorize any such persons to answer any inquiries, questions or interrogatories concerning the undersigned which may be submitted to them by the City or its authorized representative. I fully understand that the information so obtained by the City may be used in the evaluation of my application.

I hereby release and exonerate any person who shall comply with the authorization and request made herein from any and all liability of every nature and kind growing out of and in any ways pertaining to the furnishing or inspection of such documents, records or other information.

I am a resident of the State of Minnesota. Yes; No

If not a Minnesota resident, I authorize the appropriate authorities to conduct a background investigation in the state of residence listed on the valid identification card provided as part of this application.

Date

Signature

**AUTHORIZATION OF RELEASE OF DATA
IN SUPPORT OF A TOBACCO LICENSE**

In order to comply with State and Federal Data Privacy Acts, the City of Coon Rapids is required to ask the following information. This authorization expires one year from date of application.

New Store Manager

Store Name

Store Telephone

Full First Middle Last

Driver's License Number

Home Street Address

Date of Birth (MM/DD/YY)

City State Zip

Day Telephone

Evening Telephone

Have you ever been convicted of any crime, either felony or misdemeanor? Yes; No. If yes, state nature and location of offense(s): _____

Within the last five years have you been convicted of violating any federal, state or local law relating to the sale of tobacco, tobacco products or tobacco related devices? Yes; No. If yes, please describe the circumstances, including the date and location. _____

Within the twenty four (24) months preceding this application, have you had a license to sell tobacco, tobacco products or tobacco related devices suspended or revoked by any jurisdiction? Yes; No. If yes, please describe the circumstances, including the date and location _____

I, the undersigned, have made application with the City of Coon Rapids for a **Tobacco License**. Realizing the City has need to investigate my background and history in order to better evaluate my application, I hereby authorize and request every law enforcement official and every other person, firm, officer, corporation, association, organization or institution having control of any documents, records or other information pertaining to me to furnish the original or copies of any such documents, records and other information to the City, and to permit said City or any of its representatives to inspect and make copies of any such documents, records and other information. I further authorize any such persons to answer any inquiries, questions or interrogatories concerning the undersigned which may be submitted to them by the City or its authorized representative. I fully understand that the information so obtained by the City may be used in the evaluation of my application. I hereby release and exonerate any person who shall comply with the authorization and request made herein from any and all liability of every nature and kind growing out of and in any ways pertaining to the furnishing or inspection of such documents, records or other information.

Date

Signature

- Attached is a photocopy of my driver's license or other state issued identification card.**
- \$120 Investigation fee attached.**



SUPPLEMENTAL INVESTIGATION INFORMATION

Print Full Name

Date of Birth

The following information is necessary for the Police Department to properly identify the applicant for purposes of the required background investigation. This information will be retained only by the Police Department as required by law and will not be included in any investigative report submitted to the City Council and will not become a part of the public record or released to the public except as authorized by law.

Sex: Male; Female

Race: _____

License Application to Make Retail Sales of Cigarette and Other Tobacco Products

To be completed by applicant when applying for a license with a city or county.

Print or type	Applicant's Minnesota tax ID number	← The Minnesota tax ID must be issued in the same legal name of the licensee below.	FOR MUNICIPAL USE ONLY		
			License number		
	Cigarettes/tobacco products will be sold (a separate license is required for each location or vending machine): <input type="checkbox"/> Over counter <input type="checkbox"/> Through vending machine <input type="checkbox"/> Both			Period covered	
				Date of Issuance	
				Federal employer ID number (FEIN)	
	Licensee's legal name			Daytime phone	
	Business trade name (doing business as)			Other phone number	
Complete address of business location (permit location) County			Fax number		
City State Zip code			Email address		
Mailing address (if different than business address) City State Zip code					

Business Information	Type of legal organization (check one):				
	<input type="checkbox"/> Sole proprietor	<input type="checkbox"/> Minnesota corporation: Enter date of incorporation _____			
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Out-of-state corporation: State of incorporation _____			
	<input type="checkbox"/> Other (describe) _____	Are you registered to do business in Minnesota? <input type="checkbox"/> Yes <input type="checkbox"/> No			
	Corporate officers or partners (attach a list if necessary)				
Name		Title			
Address		City	State	Zip code	
Name		Title			
Address		City	State	Zip code	

Statement of understanding	As a licensed tobacco products or cigarette retailer, I understand that:				
	1. I can purchase cigarettes only from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue.				
	2. I must obtain a tobacco products distributor license if I purchase untaxed tobacco products from an out-of-state company.				
	3. I may not sell cigarettes affixed with Minnesota Native American stamps unless my retail business is located on a reservation that has a tax agreement with the State of Minnesota.				
	4. I may not purchase from or exchange cigarettes or tobacco products with another retailer.				
	5. I must keep complete and legible cigarette and tobacco products invoices on the licensed premises, or make invoices available within one hour of request, for at least one year after the date of the purchase.				
	6. I know that the Minnesota Department of Revenue and/or law enforcement may conduct cigarette and tobacco inspections of the premises, including inspections of inventory, invoices and licenses, and I understand that a refusal to allow an inspection is grounds for revocation of my license.				
	7. I know that failure to comply with all requirements can result in criminal penalties, including the loss of cigarettes and tobacco products.				

Sign here					
	Licensee signature	Title	Print name	Date	Daytime phone
Licensing agent's signature	Title	Print name	Date	Daytime phone	

License applicant: Submit this form to the licensing authority along with the license application.
Licensing authority: Mail or fax a copy of approved form to:
 Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331. Fax: 651-297-1939
 Phone: 651-297-1882. TTY: Call 711 for Minnesota Relay.

CITY OF COON RAPIDS, MINNESOTA

CHAPTER 5-100

GENERAL PROVISIONS

5-101 Powers of City Council. The City Council shall have all the legislative and discretionary powers of the City to regulate and issue licenses and permits.

5-102 Authority of City Clerk to Issue. Except as may be otherwise provided in Titles 5 and 6, the City Clerk is authorized to approve or deny applications for all licenses and permits provided for therein and, upon approval, to issue the appropriate licenses and permits. Applications shall be made in writing on such forms as the Clerk may from time to time designate and shall contain such information as may be required by the Clerk. Applications shall be made by the proposed licensee or permittee or the applicant's designated authorized agent. Unless otherwise provided, the decision of the Clerk must be made within 14 business days following receipt of a completed application. For reasonable cause, the Clerk may, by providing written notice before the end of the initial review period, extend the review period one time for an additional period of up to 14 business days. All decisions of the Clerk must be in writing and any denial must state the reasons therefor. The issuance of a license or permit will constitute written approval of an application. Failure of the Clerk to act on an application within the allotted time period, or any extension thereof, will constitute approval of the application.[Revised 3/1/05, Ordinance 1869]

5-103 Referral to Council. The City Clerk will refer any application to the City Council whenever the applicable City Code provisions require Council action.[Revised 3/1/05, Ordinance 1869]

5-104 Appeal to City Council. Within 10 calendar days after written notice of the City Clerk's decision, any aggrieved party may appeal that decision to the City Council by submitting a written notice of appeal with the Clerk stating the grounds for the appeal. The Clerk will cause the appeal to be placed on the next available City Council agenda that is scheduled not less than 10 nor more than 30 calendar days following receipt of the appeal notice. The Clerk will, in writing, notify the applicant, and such other appropriate parties as determined by the Clerk, of the date, time and place of the meeting at which the appeal will be heard. If the Clerk has issued a license or permit and an aggrieved party appeals that action, the license or permit shall remain in effect until the Council has acted upon the matter. The Council may affirm or deny the issuance of the license or permit in accordance with the appropriate Code section. The decision of the Council may be subject to judicial review upon written notice thereof provided to the City Clerk within 10 calendar days after the Council's decision. If no appeal is taken as provided for herein, a license or permit issued by the Clerk, or by the Council on appeal, shall be deemed valid and may be revoked only after a hearing and for cause shown, as provided for in Section 5-108.[Revised 3/1/05, Ordinance 1869]

5-105 License Period and Fee. Each license issued pursuant to this Chapter shall run from January 1 through December 31 of each year, unless otherwise stated, and the required fee shall be prorated on a monthly basis unless specifically provided otherwise. If the fee is prorated, the City Clerk or the Council may stay commencement of the license period until the purpose for which the license is granted begins. The license fee shall accompany each application and shall be returned to the applicant if the application is denied, unless specifically provided otherwise.

5-106 Posting. Any license or permit that is issued pursuant to this Chapter shall be posted in a conspicuous place on the licensed premises for its duration.

5-107 Transfer of License. No license or permit shall be transferable as to holder or location without the

consent of the City Clerk, if the license was issued by the Clerk, or by the City Council if issued by the Council.

5-108 Revocation or Suspension. The City Council may, for cause, revoke or suspend any license or permit issued pursuant to this Chapter. Before revocation or suspension, the licensee or permittee shall be provided with written notice setting forth the nature of the charges and setting a date and time for the hearing before the City Council, which hearing shall not be less than 10 nor more than 30 calendar days following the date of service of such notice upon the licensee or permittee by registered mail or personal service. The licensee or permittee shall have the right to appear with counsel, and to present such evidence and make such argument as the Council may deem appropriate. The Council shall have the discretion and authority to suspend the license or permit pending the hearing.[Revised 3/1/05, Ordinance 1869]

5-109 Retail Liquor License Revocation or Suspension; Civil Penalty. Notwithstanding the provisions of Section 5-108 the City Council may suspend, revoke, impose a civil penalty, or impose a combination of these sanctions with respect to a retail liquor license, but only in conformance with Minnesota Statutes Section 340A.415.[Revised 9/3/96, Ordinance 1573]

5-110 Criminal History Background Investigations. When required by law or ordinance as a condition of the issuance of a license, the Police Department is hereby required as the exclusive entity within the City, to conduct criminal history background investigations on applicants for City licenses under Title 5 of the City Code or any other Chapter requiring a criminal history background investigation as a condition of granting a license.

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with the Bureau of Criminal Apprehension policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Manager, City Clerk, or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except in the case of exceptions set forth in Minnesota Statutes Section 364.09, as may be amended from time to time, the City will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor for which a jail sentence was, or could have been, imposed. If the City rejects an applicant's request for a license on this basis, the City will notify the applicant in writing of the following:

- (1) the grounds and reasons for denial;
- (2) the applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06, as may be amended from time to time;
- (3) the earliest date the applicant may reapply for a license; and
- (4) that all competent evidence of rehabilitation will be considered upon re-application. [Adopted 5/6/03, Ordinance 1799][Revised 7/7/09, Ordinance 2016]

5-111 Notice. For the purposes of Titles 5 and 6, any required written notice will be considered completed at such time as it is deposited in the United States mail. Unless the City Clerk is advised otherwise, notices relating to licenses and permits under Title 5 will be addressed to the applicant and sent to the address provided on the application form. The issuance of a license or permit will be considered written notice of approval of an application.[Revised 3/1/05, Ordinance 1869]

5-112 Time Extensions. Unless otherwise provided in State law or elsewhere in this Title 5, the City Clerk may, for cause, extend the time for approving or denying an application for license or permit. The extension may not exceed 14 calendar days and the Clerk must notify the applicant of the extension and the reasons therefor before the end of the initial approval period.[Revised 3/1/05, Ordinance 1869]

5-113 Definitions. For purposes of this Title 5, the following terms will have the meanings provided in this section unless specifically stated otherwise.

(1) “Business Days” mean those days when the offices of the City of Coon Rapids are open for normal business.

(2) “City Clerk” means the duly appointed City Clerk or the Clerk's designee.

(3) “Mail” means the deposit in the United States mail.[Revised 3/1/05, Ordinance 1869]

CITY OF COON RAPIDS, MINNESOTA

CHAPTER 5-900

TOBACCO

5-901 Purpose. The City of Coon Rapids recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and that such sales, possession, and use are in violation of both State and Federal laws. The City finds that studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and that smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; therefore this Chapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statutes, Section 144.391.

5-902 Definitions. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following terms shall have the definitions given to them:

(1) Tobacco or Tobacco Products. “Tobacco” or “Tobacco Products” shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; little cigars; pipe tobacco; snuff; snuff flour; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, cavendish; shorts; plug and twist tobacco; dipping tobacco; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking. 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.[Revised 10/19/10, Ordinance 2050]

(2) Tobacco Related Devices. “Tobacco Related Devices” shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

(3) Self-service Merchandising. “Self-service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices without the assistance or intervention of the licensee or the licensee’s employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

(4) Vending Machine. “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, or tobacco related device.

(5) Individually Packaged. “Individually Packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single cigars, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

(6) Loosies. “Loosies” shall mean the common term to refer to a single or individually packaged cigarette.

(7) Minor. “Minor” shall mean any natural person who has not yet reached the age of 18 years.

(8) Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

(9) Movable Place of Business. “Movable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

(10) Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

(11) Compliance Checks. “Compliance Checks” shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this Chapter. Compliance checks shall involve the use of minors as authorized by this Chapter. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research, and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State, or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

5-903 License. No person shall sell, offer for sale, keep for sale, or otherwise dispose of, directly or indirectly, any tobacco, tobacco products, or tobacco related devices without first obtaining a license to do so from the City.

(1) Exceptions.

(a) This Section does not apply to the wholesale of tobacco, tobacco products, or tobacco related devices provided sales are not made to the general public.

(b) This Section does not apply to retail establishments that may incidentally sell articles which could meet the definition of tobacco related devices, but which establishments do not sell tobacco or tobacco products and the articles sold are not intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco products.

(2) Application. An application for a license shall be made to the City Clerk in writing on a form provided by the City. The application shall include the following:

(a) Applicant’s full name and date of birth.

(b) Applicant’s residence address and telephone number.

(c) Applicant’s business address and telephone number.

(d) Name of applicant’s business.

(e) Location of applicant’s business.

(f) Kind of business being conducted or to be conducted.

(g) Whether the applicant has been convicted within the last five years of violating any Federal, State, or local laws relating to the sale of tobacco, tobacco products, or tobacco related devices, and if so where and when.

(h) Whether the applicant has, within the preceding 24 months, had a license to sell tobacco, tobacco products, or tobacco related devices suspended or revoked by any jurisdiction, and, if so, where and when.[Revised 3/1/05, Ordinance 1871]

(i) Such other information as required by the City.

(3) Issuance of License. New licenses and license renewals shall be issued or denied by the City Clerk in accordance with the provisions of Section 5-102, except that the Clerk shall have an initial review period of up to 30 business days in which to issue or deny a license.[Revised 3/1/05, Ordinance 1871]

(4) Appeal. Any person aggrieved by the action of the City Clerk in issuing or denying a new or renewal license may appeal that decision to the City Council by submitting a written appeal request, stating the grounds for the appeal, to the City Clerk within 10 calendar days following the Clerk’s decision. The Clerk shall submit a

properly submitted appeal to the City Council in accordance with the provisions of Section 5-104. A license issued by the Clerk shall remain in effect until the City Council has acted on the matter. The Council may affirm or overturn the action of the Clerk. In the event the Council overturns the action of the Clerk and denies the application, the previously issued license shall be immediately null and void.[Revised 3/1/05, Ordinance 1871]

5-904 Term of License. All licenses issued under this Chapter shall expire at midnight on December 31st of each year.

5-905 Fees. Application and license fees for licenses issued pursuant to this Chapter shall be established from time to time by ordinance of the City Council. Fees shall be sufficient to cover the costs of investigating and issuing a license and the anticipated expenses and costs of enforcing this Chapter. Fees shall be prorated on a monthly basis and the commencement of a license period may be stayed until the purpose for which the license is granted begins. All required fees shall accompany an application and if an application is denied the license fee shall be returned to the applicant. The investigation fee is non-refundable.[Revised 3/1/05, Ordinance 1871]

5-906 Display. All licenses shall at all times be posted and displayed on the licensed premises in plain view for the general public.

5-907 Transfer of License. All licenses issued under this Chapter shall be valid only for the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

5-908 Movable Place of Business. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this Chapter.

5-909 Renewals. The renewal of a license issued under this Section shall be handled in accordance with Section 5-903(3). The request for a renewal shall be made at least 30 days, but no more than 60 days, before the expiration of the current license. The issuance of a license pursuant to this Chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

5-910 Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this Chapter; however, except as may otherwise be provided by law, the existence of any particular grounds for denial does not require that the City deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- (1) The applicant is under the age of 18 years.
- (2) The applicant has been convicted within the past five years of a violation of a Federal, State, or local law, ordinance provision or other regulation relating to tobacco, tobacco products, or tobacco related devices.
- (3) The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding 12 months of the date of application.
- (4) The applicant fails to provide any information on the application or provides false or misleading information.
- (5) The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

5-911 Prohibited Sales. It shall be a violation of this Chapter for any person to sell or offer to sell any tobacco, tobacco products, or tobacco related device:

- (1) To any person under the age of 18 years.

- (2) By means of any type of vending machine.
- (3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee or the licensee's employee and the customer.
- (4) By means of loosies.
- (5) Containing opium, morphine, jimsonweed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- (6) By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

5-912 Vending Machines. It shall be unlawful for any person, whether or not licensed under this Chapter, to allow the sale of tobacco, tobacco products, or tobacco related devices by means of a vending machine.

5-913 Self-service Sales. It shall be unlawful for a licensee under this Chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related devices between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this Chapter is adopted shall comply with this Section within 90 days. This Section does not apply to stores that generate at least 90 percent of their revenues from the sale of tobacco, tobacco products, or tobacco related devices, provided that minors are, at all times, prohibited from entering the stores.

5-914 Responsibility. All licensees under this Chapter shall be responsible for the actions of their 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 City from also subjecting the clerk to whatever penalties are appropriate under this Chapter, State or Federal law, or other applicable law or regulation.

5-915 Compliance Checks and Inspections. All licensed premises shall be open to inspection by the City Police or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years, but less than 18 years, to enter each licensed premises to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, training purposes or required for enforcement of a particular State or Federal law.

5-916 Other Illegal Acts. Unless otherwise provided, the following acts shall be a violation of this Chapter:

(1) Illegal Sales. It shall be a violation of this Chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.

(2) Illegal Possession. It shall be a violation of this Chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This sub-section shall not apply to minors lawfully involved in a compliance check.

(3) Illegal Use. It shall be a violation of this Chapter for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

(4) Illegal Procurement. It shall be a violation of this Chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco related device, and it shall be a violation of this Chapter for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This sub-section shall not apply to minors lawfully involved in a compliance check.

(5) Use of False Identification. It shall be a violation of this Chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with, to represent an age older than the actual age of the person.

5-917 Violations.

(1) Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

(2) Hearings. If a person accused of violating this Chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(3) Hearing Officer. The City Manager shall from time to time designate a hearing officer.

(4) Decision. If the hearing officer determines that a violation of this Chapter did occur, the decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 5-918 of this Chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

(5) Appeals. Appeals of any decision made by the hearing officer may be made to the City Council by filing a written request for an appeal with the hearing examiner within 10 days after the hearing examiner's decision. The hearing examiner shall place the appeal on the next Council agenda that is held at least 10 days following the receipt of the appeal request. Appeals from any decision of the City Council shall be filed in the District Court for the City in which the alleged violation occurred.

(6) Misdemeanor Prosecution. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this Chapter. If the City elects to seek misdemeanor prosecution, no administrative penalties shall be imposed.

(7) Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(8) Affirmative Defense. It is an affirmative defense to the charge of selling or otherwise providing tobacco, tobacco products, or tobacco related devices to a minor in violation of Section 5-916(1) that the licensee or individual selling or providing the tobacco, tobacco products, or tobacco related device relied in good faith upon proof of age as described in Minnesota Statutes, Section 340A.503, subd. 6.

5-918 Penalties.

(1) Licensee. Any licensee found to have violated this Chapter, or whose employee shall have violated this

Chapter, shall be charged an administrative fine of \$250.00 for a first violation of this Chapter; \$500.00 for a second offense at the same licensed premises within a 24 month period; and \$2,500.00 and a suspension of not less than seven days for a third or subsequent offense at the same location within a 24 month period.[Revised 5/18/04, Ordinance 1837] [Revised 9/19/06, Ordinance 1930][Revised 10/19/10, Ordinance 2050]

(2) Other Individuals. Other individuals, other than minors regulated by Sub-section (3) of this Section, found to be in violation of this Chapter shall be charged an administrative fee of \$75.00 for a first violation of this Chapter; \$200.00 for a second offense within a 24 month period; and \$250.00 for a third or subsequent offense within a 24 month period.

(3) Minors. Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco product, shall be charged an administrative fee of \$75.00 for first violation of this Chapter; \$200.00 for a second offense within a 24 month period; and \$250.00 for a third or subsequent offense within a 24 month period. In addition, a minor may be required to attend a tobacco education program as determined from time to time by the City Council.

(4) Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this Chapter.

5-919 Revocation or Suspension. The City Council may revoke or suspend any license for cause. Before revocation or suspension, the licensee shall be provided with written notice setting forth the nature of the charges against the licensee and setting a date for a hearing before the City Council, which hearing shall not be less than 10 or more than 30 days following the date of service of such notice upon the licensee by registered mail or personal service. The licensee shall have the right to appear with counsel, and to present such evidence and make such argument as the Council may deem appropriate. The Council shall have the discretion and power to suspend the license pending the hearing.[Revised 3/1/05, Ordinance 1871]

5-920 Exceptions and Defenses. Nothing in this Chapter shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony.

5-921 Severability and Savings Clause. If any Section or portion of this Chapter shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other Section or provision of this Chapter.[Revised 11/17/98, Ordinance 1649]