

ORDINANCE NO. 1720

BEING AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE TO REVISE PURPOSE AND INTENT, DEFINITIONS, LICENSE, FEES, BASIS FOR DENIAL OF LICENSE, PROHIBITED SALES, COMPLIANCE CHECKS AND INSPECTIONS, EXCEPTIONS AND DEFENSES, AND VIOLATIONS AND PENALTIES

The City of Columbia Heights does ordain:

Section 1

5.301 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.301 PURPOSE AND INTENT.

Because the City recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 21 violates both state and federal laws; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; **and because marketing analysis, public health research, and commercial tobacco industry documents demonstrate that tobacco companies have used menthol, mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit;** and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government; this ordinance is intended to regulate the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious effects associated with the use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 1371, passed 5-11-98; Am. Ord. 1616, passed 10-27-14; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21)

Section 2

5.302 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.302 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY TOBACCO RETAILER. A retail establishment that has obtained an appropriate license from the City and that derives no more than 45% of its gross revenues from the sale of licensed products.

CHILD-RESISTANT PACKAGING. Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20. as in effect on January 1, 2015.

CIGAR. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as it may be amended from time to time.

COMPLIANCE CHECKS. The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. ~~Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products.~~ Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to licensed products.

ELECTRONIC DELIVERY DEVICE. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. ELECTRONIC DELIVERY DEVICE includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. ELECTRONIC DELIVERY DEVICE includes any component part of a product, whether or not marketed or sold separately. ELECTRONIC DELIVERY DEVICE does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

FLAVORED PRODUCT. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice, **or a cooling or numbing sensation distinguishable by an ordinary consumer either prior to or during the consumption of such licensed product.** A public statement or claim, whether expressed or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces **a cooling or numbing sensation** or a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product. **Presumptive evidence may include but is not limited to the use of terms such as “cool,” “chill,” “ice,” “fresh,” “arctic,” or “frost” to describe the product.**

INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether opened or closed, covering more than 50% of the combined surface area of

the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

LICENSED PRODUCTS. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

LOOSE TOBACCO. Any product that consists of loose leaves or pieces of tobacco that is intended for use by consumers in a pipe, roll-your-own cigarette, or similar product or device.

LOOSIES. The common term used to refer to single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

MOIST SNUFF. Any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

MOVEABLE PLACE OF BUSINESS. Any form of business operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure licensed for over-the-counter sales transactions.

NICOTINE OR LOBELIA DELIVERY PRODUCT. Any product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. **NICOTINE OR LOBELIA DELIVERY PRODUCT** does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drug,” “devices,” or “combination,” as defined in the Federal Food, Drug, and Cosmetic Act.

RETAIL ESTABLISHMENT. Any place of business where licensed products are available for sale to the general public. The phrase shall include but not be limited to tobacco product shops, **accessory tobacco retailers**, liquor stores, grocery stores, convenience stores, bars, and restaurants.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF-SERVICE DISPLAY. Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee’s employee, and where a physical exchange of the licensed product from the licensee or the licensee’s employee to the customer is not required in order to access the licensed products.

SMOKING. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. **SMOKING** also includes carrying or using an activated electronic delivery device.

SNUS. Any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.

TOBACCO. 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 including but not limited to cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobaccos; fine cut and other chewing tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco. TOBACCO does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products” as defined in the Federal Food, Drug, and Cosmetic Act.

TOBACCO PRODUCT SHOP. A retail establishment that has obtained an appropriate license from the eCity that:

- (1) Prohibits persons under 21 from being present or entering at all times;
- (2) Derives at least 90% of its gross revenues from the sale of licensed products; and
- (3) Meets all of the following building or structural criteria:

(a) Shares no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass-throughs to the other business or retailer;

(b) Shares no walls with, and has no part of its structure directly adjoined to another licensed tobacco retailer; and

(c) Is accessible by the public only by an entrance door opening directly to the outside.

TOBACCO-RELATED DEVICES. Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. TOBACCO-RELATED DEVICES include components of tobacco-related devices or tobacco products which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

VENDING MACHINE. Any mechanical, electric or electronic, or other type of device which dispenses licensed products upon the insertion of money, tokens or other form of payment into or onto the machine by the person seeking to purchase the licensed product.

(Ord. 1371, passed 5-11-98; Am. Ord. 1570, passed 9-28-09; Am. Ord. 1616, passed 10-27-14; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21)

Section 3

5.303 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.303 LICENSE.

(A) License required. No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the City.

(B) Accessory tobacco retailer license.

(1) No person shall operate an accessory tobacco retailer without first having obtained an accessory tobacco retailer license to do so from the City. To qualify for an accessory tobacco retailer license, the retail establishment must:

(a) Derive no more than 45% of its gross revenues from the sale of licensed products.

(2) Accessory tobacco retailers must provide financial records documenting annual gross sales, upon request by the City.

(B)C) Tobacco product shop license.

(1) No person shall operate a tobacco product shop without first having obtained a tobacco product shop license to do so from the City. To qualify for a tobacco product shop license, the retail establishment must:

(a) Prohibit persons under the age of 21 from being present or entering at all times;

(b) Derive at least 90% of its gross revenues from the sale of licensed products; and

(c) Meet all of the following building or structural criteria:

1. Share no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass-throughs to the other business or retailer;

2. Share no walls with, and has no part of its structure directly adjoined to, another licensed tobacco retailer; and

3. Is accessible by the public only by an entrance door opening directly to the outside.

~~(2) At any given time, there shall be no more than three smoke tobacco product shops, all with appropriate licenses, throughout the city. Currently existing smoke tobacco product shop establishments should be granted the first preference to renew their smoke tobacco product shop licenses if they choose to do so. Effective January 1, 2022, indoor sampling for all smoke shops shall be prohibited.~~

(2) Tobacco product shops must provide financial records documenting annual gross sales, upon request by the City.

(3) Maximum number of licenses. The maximum number of tobacco product shop licenses issued by the City at any time is limited to zero. The City will not issue any new licenses for tobacco product shops after December 31, 2025.

(4) Renewal of existing licenses.

(a) The City will renew existing tobacco product shop licenses that were issued prior to January 1, 2026, to existing license holders who have applied for renewal by December 31 of each year.

(b) An eligible party will lose the existing license if they fail to renew it annually or if the license is revoked for any reason.

(5) One-time succession allowance.

(a) For one time only per location, the City will allow an existing tobacco product shop license to be issued to a new owner of an existing tobacco product shop location if the new owner applies for and meets the requirements for licensure under this section.

(b) A new owner licensed under this subsection will be subject to the same annual renewal requirements as existing tobacco product shop licensees.

(c) The new owner will lose the existing license if they fail to renew the license annually or, if the license is revoked for any reason, the license will be forfeited.

(d) This one-time succession allowance only applies to tobacco product shop locations that are duly licensed as of December 31, 2025.

(e) This one-time succession allowance only applies if the tobacco product shop is sold to or ownership is transferred to the new owner on or before January 1, 2028.

(D) Application. An application for a license to sell licensed products shall be made on a form provided by the City. The application shall contain the full name of the applicant, applicant's date of birth, applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, the name of the business's operator, and any additional information the City deems necessary. Upon receipt of a completed application, the Clerk shall forward the application to the Police Department for a background and record check prior to formal review by the City Council. If the Clerk shall determine that an application is incomplete, the Clerk shall return the application to the applicant with notice of the information necessary to make the application complete.

(E) Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the Clerk shall issue **or renew** the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(F) Term. All licenses issued **or renewed** under this article shall follow the calendar year with an expiration date of December 31 of each year and are not pro-rated.

(G) Revocation or suspension. Any license issued **or renewed** under this article may be revoked or suspended as provided in § 5.311.

(GH) Transfers. All licenses issued or renewed under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location or person is prohibited.

(HI) Moveable place of business. No license shall be issued or renewed to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

(IJ) Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(JK) Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. 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.

(KL) Issuance and renewal as privilege and not a right. The issuance or renewal of a license issued under this article 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.

(LM) Smoking prohibited. Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.

(MN) Samples prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of licensed products as a free donation is prohibited.

(Ord. 1371, passed 5-11-98; Am. Ord. 1570, passed 9-28-09; Am. Ord. 1616, passed 10-27-14; Am. Ord. 1652, passed 10-8-18; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21) Penalty, see § 5.313

Section 4

5.304 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.304 FEES.

No license shall be issued or renewed under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be established in the City’s schedule of fees.

(Ord. 1371, passed 5-11-98; Am. Ord. 1670, passed 10-11-21) Penalty, see § 5.311

Section 5

5.305 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.305 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this article includes but is are not limited to the following:

- (1) The applicant is under the age of 21 years.

(2) The applicant, or any employee thereof, has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.

(3) The applicant has had a license to sell licensed products revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required 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.

(6) Any other suitable reason that the granting of a license to the applicant is inconsistent with public health, safety, and welfare, including the applicant's history of noncompliance with this ordinance and other laws relating to the sale of licensed products.

(B) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not obligate the City to deny the license.

(C) 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 article. The City will provide the license holder with notice of the revocation, along with information on the right to appeal.

(Ord. 1371, passed 5-11-98; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21) Penalty, see § 5.311

Section 6

5.306 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.306 PROHIBITED SALES.

In general. No person shall sell or offer to sell any licensed product:

- (1) By means of any type of vending machine.
- (2) By means of self-service display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. ~~This division shall not apply to tobacco product shops.~~
- (3) By means of loosies as defined in § 5.302;
- (4) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, ~~marijuana~~, **cannabis**, 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. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
- (5) 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.

(B) Legal age. No person shall sell any licensed product to any person under the age of 21.

(1) Age verification. Licensees must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(2) Signage. Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently in plain view at all times at each location where licensed products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(C) Flavored products. No person shall sell or offer for sale any flavored products. This prohibition ~~does~~ shall not apply to licensed tobacco product shops until January 1, 2028, on and after which date the sale of flavored products shall be prohibited in all retail establishments in the City.

(D) Liquid packaging. No person shall sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child resistant. Upon request by the City, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

(E) Minimum prices and package sizes.

(1) Cigar minimum price and package size. No person shall sell or offer to sell any cigar unless it is within a package containing a minimum of five cigars; and any package of cigars for a sales price of less than \$13.75 per package before taxes and fees. This provision does not prohibit the sale of a single cigar with a sales price of at least \$2.75, after any discounts are applied and before sales taxes are imposed.

(2) Cigarette minimum price. No person may sell or offer to sell cigarette packages or cartons for a sales price of less than \$12 per pack before taxes and fees.

(3) Moist snuff minimum price and package size. No person shall sell or offer to sell moist snuff retail packages or multipacks for a sales price of less than \$12 per 1.2-ounce package before taxes and fees. No person shall sell or offer to sell any smokeless tobacco or moist snuff for retail sale unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding \$2.50 for each 0.3 ounce or any fraction thereof more than 1.2 ounces, excluding taxes and fees.

(4) Snus minimum price and package size. No person shall sell or offer to sell snus for a sales price of less than \$12 per 0.32-ounce package before taxes and fees. No person shall sell or offer to sell any snus unless it is sold in a package of at least 0.32 ounce minimum pack size. The price floor for packages larger than 0.32 ounce shall be computed by adding \$2.50 for each 0.08 ounce or any fraction thereof more than 0.32 ounce excluding taxes and fees.

(5) Loose tobacco minimum price and package size. No person shall sell or offer to sell a package of loose tobacco for three ounces or less, prior to applicable sales taxes being imposed, of less than \$4 nor a package of loose tobacco greater than three ounces, prior to taxes being imposed, of less than \$12.

(6) Electronic delivery device minimum price. No person shall sell or offer to sell any electronic delivery device at a price that is less than \$20 per device, excluding taxes and fees. This price is applicable to any type of electronic delivery device and applies per unit even if sold together.

(7) Price adjustment. The minimum pricing established in this section shall be adjusted periodically to account for inflation and market variation.

(F) Coupon and price promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any licensed products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

(Ord. 1371, passed 5-11-98; Am. Ord. 1513, passed 9-25-06; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21) Penalty, see § 5.311

Section 7

5.307 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.307 LICENSE HOLDER RESPONSIBILITY.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. It shall be the license holder’s responsibility to provide training to any employee conducting sales of licensed products and to document proof of such training to be provided upon request by any enforcing agent of the City.

(Ord. 1371, passed 5-11-98; Am. Ord. 1670, passed 10-11-21) Penalty, see § 5.311

Section 8

5.308 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.308 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises must be open to inspection by law enforcement or other authorized City officials during regular business hours. From time to time, but at least once per year, the City will conduct compliance checks to ensure compliance with all provisions of this ordinance. In accordance with state law, the City will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or

guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

(Ord. 1371, passed 5-11-98; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21)
Penalty, see § 5.311

Section 9

5.309 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.309 OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this article:

(A) Illegal procurement. It shall be a violation of this article for any person aged 21 or older to purchase or otherwise obtain licensed products on behalf of a person under the age of 21. It shall further be a violation for any person aged 21 or older to sell or otherwise provide any licensed product to any person under the age of 21, and it shall further be a violation to coerce or attempt to coerce a person under the age of 21 to purchase or otherwise obtain or use any licensed products. This division shall not apply to individuals lawfully involved in a compliance check.

(B) Use of false identification. It shall be a violation of this article for any person to attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 1371, passed 5-11-98; Am. Ord. 1667, passed 6-14-21; Am. Ord. 1670, passed 10-11-21)
Penalty, see § 5.311

Section 10

5.310 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.310 EXCEPTIONS AND DEFENSES.

Nothing in this article shall prevent the providing of tobacco or tobacco-related devices to a person under the age of 21 as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

(Ord. 1371, passed 5-11-98; Am. Ord. 1670, passed 10-11-21)

Section 11

5.311 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.311 VIOLATIONS AND PENALTIES.

(A) 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 their right to be heard on the accusation.

(2) Hearings. If a person accused of violating this article 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 Council, or representative designated by the City Council, shall serve as the hearing officer.

(4) Decision. If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under division (B) of this section, 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 shall be filed in the district court for the city in which the alleged violation occurred.

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

(B) Administrative penalties.

(1) Licensees. Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine of ~~\$300~~ **\$600** for a first violation of this article; ~~\$600~~ **\$1200** for a second offense at the same licensed premises within a 36-month period; and ~~\$1,000~~ **\$2,000** for a third or subsequent offense at the same location within a 36-month period. In addition, **after the second offense, the license shall be suspended for not less than three days, and** after the third offense, the license shall be suspended for not less than seven days. Upon a fourth violation within a 36-month period, the license will be revoked.

(2) Other individuals. Other individuals, ~~other than persons under the age of 21 regulated by division (B)(3) of this section,~~ found to be in violation of this article may be charged an administrative fee of \$50.

~~(3) Persons under the age of 21. Persons under the age of 21 who purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties or remedies such as tobacco-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the City determines to be appropriate. The City Council will consult educators, parents, guardians, persons under the age of 21, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 in the City in the best interest of the underage person. The remedies for persons under 21 who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.~~

(43) Statutory penalties. If the administrative penalty for violations against licensed retailers under division (B)(1) above authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differs from that established in this section, then the higher penalty will prevail.

(C) Misdemeanor. Nothing in this section prohibits the City from seeking prosecution as a misdemeanor for an alleged second violation of this ordinance by a person 21 years of age or older within five years of a previous conviction under the ordinance.

(Ord. 1371, passed 5-11-98; Am. Ord. 1670, passed 10-11-21)

Section 12

This ordinance shall be in full force and effect from and after July 1, 2026.

First Reading: November 10, 2025

Offered by: James

Seconded by: Deneen

Roll Call: All ayes, Spriggs absent

Second Reading: November 24, 2025

Offered by: Deneen

Seconded by: James

Roll Call: All Ayes

Date of Passage: November 24, 2025



Amada Márquez Simula, Mayor

Attest:



Sara Ion, City Clerk/Council Secretary


SUMMARY OF ORDINANCE NO. 1720

BEING AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE TO REVISE PURPOSE AND INTENT, DEFINITIONS, LICENSE, FEES, BASIS FOR DENIAL OF LICENSE, PROHIBITED SALES, COMPLIANCE CHECKS AND INSPECTIONS, EXCEPTIONS AND DEFENSES, AND VIOLATIONS AND PENALTIES

The City Council for the City of Columbia Heights, Minnesota, adopted Ordinance No. 1720 on November 24th, 2025.

The purpose of this ordinance is to amend, upon passage, Chapter 5.3: Tobacco Regulations, of the Code of Ordinances. Specifically, this amendment: revises Purpose and Intent to reference public health findings; adds new and amends existing Definitions; updates License to define an accessory tobacco retailer licensing process, to include language which will reduce the number of tobacco product shop licenses to zero through attrition, and to provide for a one-time succession allowance through January 1st, 2028 for tobacco product shops; clarifies language in Fees; strengthens language in Basis for Denial of License; updates Prohibited Sales to modernize language, to comprehensively prohibit the sale of flavored products in all retail establishments beginning January 1st, 2028 (note: sale of flavored products by accessory tobacco retailers is already prohibited), to institute minimum prices and package sizes for licensed products, and to ban the use of coupons and price promotions; clarifies language in Compliance Checks and Inspections; fixes a typo in Exceptions and Defenses; and strengthens Violations and Penalties for licensees while removing purchase, use, and possession penalties for persons under the age of 21.

This is a summary of Ordinance No. 1720. A copy of the entire text of the Ordinance is available for public inspection during regular office hours at City Hall, by standard or electronic mail, or at www.columbiaheightsmn.gov.


Amada Márquez Simula, Mayor

Attest:


Sara Ion, City Clerk/Council Secretary