

ORDINANCE NO. 2026

AN ORDINANCE AMENDING AND RE-ENACTING SECTION 22-57, 22-58 AND 22-59 OF THE DICKINSON MUNICIPAL CODE, RELATING TO THE POSSESSION, PURCHASE, OR USE OF TOBACCO PRODUCTS BY AN INDIVIDUAL UNDER THE AGE OF 21 YEARS OF AGE, SALE OF TOBACCO PRODUCTS TO CERTAIN INDIVIDUALS PROHIBITED AND PENALTIES

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DICKINSON, NORTH DAKOTA, AS FOLLOWS:

Section 1: Section 22-57 of the City Code of the City of Dickinson is hereby amended and re-enacted as follows:

Sec. 22-57. - Possession, purchase, or use of tobacco products by an individual under the age of 21 years prohibited.

- (a) It is a noncriminal offense for an individual under twenty one years of age to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under eighteen years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking or alternative nicotine products retailers may also conduct compliance surveys, after coordination with the appropriate local law enforcement authority.
- (b) It is a noncriminal offense for an individual twenty-one years of age to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.
- (c) It shall be a noncriminal offense for a minor to enter and remain in a smoke/vape shop as defined in Section 30-413. Any minor who has been cited for a violation of this section must pay a twenty-five dollar fee.
- (d) Any minor 14 years of age or older who has been cited for a violation of Subsection (a) of this section must pay a fee of twenty-five dollars.
 - 1. Any individual who has been cited for a violation of subsection (a) may appear before a court of competent jurisdiction and pay the fee by the time scheduled

for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.

2. If an individual cited for a violation of subsection (a) does not choose to follow the procedures provided under subdivision 1, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
 3. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
- (e) The prosecution must prove the commission of a cited violation under Subsection (a) of this section by a preponderance of the evidence.
- (f) A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
- (g) A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
- (Code 1993, § 25.06.020; Ord. No. 1234, § 2; Ord. No. 1495, § 1; Ord. No. 1689, § 4; Ord. No. 1724, § 6; Ord. No. 1773, § 1(25.06.020), 4-4-2023)

Section 2: Section 22-58 of the City Code of the City of Dickinson is hereby amended and re-enacted as follows:

Sec. 22-58. Sale of tobacco products to certain individuals prohibited.

- (a) It shall be an infraction for any person to sell or furnish to an individual under twenty-one years of age, or procure for an individual under twenty-one years of age, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subsection, the term "sell" includes dispensing from a vending machine under the control of the actor.
- (b) Retailers shall check a State-issued photographic identification of purchasers 30 years of age and younger for proof of age.

- (c) Sale of tobacco products through vending machines is restricted. It shall be unlawful for any person to sell or dispense any tobacco products from a vending machine, except that tobacco products may be offered for sale or sold from a vending machine on the premises of a licensed on-sale or off-sale alcoholic beverage establishment, in any area of the premises where persons under 21 years of age are prohibited and where the vending machine is located within the immediate vicinity, plain view and control of a responsible adult employee, so that all tobacco purchases will be readily observable by the employee. The vending machine may not be located in the coat room, restroom, unmonitored hallway, outer waiting area, or similar unmonitored area; nor shall the vending machine be accessible to the public when the establishment is closed.
- (d) Except on licensed alcohol premises, no tobacco products may be stored or displayed in a retail outlet in any area or in a manner which allows for self-service access by customers.
- (e) Every act or omission of whatever nature constituting a violation of the provisions of this section by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally. Notwithstanding the foregoing, the clerk or employee specifically involved in a compliance check violation with the sale of tobacco products shall be personally liable to pay an administrative fee in addition to any fees imposed upon the employer or license holder.

(Code 1993, § 25.06.030; Ord. No. 1234, § 2; Ord. No. 1495, § 1; Ord. No. 1689, § 5; Ord. No. 1773, § 1(25.06.030), 4-4-2023)

Section 3: Section 22-59 of the City Code of the City of Dickinson is hereby deleted:

(Code 1993, § 25.06.040; Ord. No. 1234, § 2; Ord. No. 1495, § 1; Ord. No. 1689, § 6; Ord. No. 1699, § 2; Ord. No. 1773, § 1(25.06.040), 4-4-2023)

Section 4: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 5: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

Section 6: Effective Date: This Ordinance shall be in full force and effect on final passage.

Scott Decker, President
Board of City Commissioners

ATTEST

Dustin Dassinger, City Administrator

First Reading: _____, 2026

Second Reading: _____, 2026

Final Passage: _____, 2026