

2 TOBACCO REGULATIONS

11.12.010 Purpose

11.12.020 Definitions And Interpretations - Tobacco Regulations

11.12.030 License

11.12.040 License Fees

11.12.050 Basis For Denial Of License

11.12.060 Unlawful Sales

11.12.070 Vending Machines Prohibited

11.12.080 Self-Service Merchandising Prohibited

11.12.090 Licensee Responsibility

11.12.100 Compliance Checks; Inspections

11.12.110 Unlawful Acts

11.12.120 Smoking And Vapor Lounges

11.12.130 Violations And Penalty

11.12.140 Exceptions And Defenses

11.12.010 Purpose

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~~¹⁸ violates both state and federal laws; and because studies, which the city accepts and adopts, have shown that ~~37.9 percent of Minnesota high school students have tried~~ ^{youth use of any} commercial tobacco product ~~has increased to 26.4% in Minnesota~~; and because nearly 90% of smokers begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal 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 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 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 health effects associated with 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.

In making these findings, the City Council accepts the conclusions and recommendations of: the U.S. Surgeon General reports, *E-cigarette Use Among Youth and Young Adults* (2016), *The Health Consequences of Smoking — 50 Years of Progress* (2014) and *Preventing Tobacco Use Among Youth and Young Adults* (2012); the Centers for Disease Control and Prevention in their studies, *Tobacco Use Among Middle and High School Students — United States, 2011–2015* (2016), and *Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997* (1998); and of the following scholars in these scientific journals: Chen, J., & Millar, W. J. (1998). Age of smoking initiation: implications for quitting. *Health Reports*, 9(4), 39-46; D'Avanzo, B., La Vecchia, C., & Negri, E. (1994). Age at starting smoking and number of cigarettes smoked. *Annals of Epidemiology*, 4(6), 455–459; Everett, S. A., Warren, C. W., Sharp, D., Kann, L., Husten, C. G., & Crossett, L. S. (1999). Initiation of cigarette smoking and subsequent smoking behavior among U.S. high school students. *Preventive Medicine*, 29(5), 327–333; Giovino, G. A. (2002). Epidemiology of tobacco use in the United States. *Oncogene*, 21(48), 7326–7340; Khuder, S. A., Dayal, H. H., & Mutgi, A. B. (1999). Age at smoking onset and its effect on smoking cessation. *Addictive Behaviors*, 24(5), 673–677; Luke, D. A., Hammond, R. A., Combs, T., Sorg, A., Kasman, M., Mack-Crane, A., Henriksen, L. (2017). Tobacco Town: Computational Modeling of Policy ~~December 2018 www.publichealthlawcenter.org Minnesota City Retail Tobacco Licensing Ordinance 6~~

~~Options~~ to Reduce Tobacco Retailer Density. *American Journal of Public Health*, 107(5), 740–746; Minnesota Department of Health. (20182021). *Data Highlights from the 20172020 Minnesota Youth Tobacco Survey*. Saint Paul, MN; ~~Tobacco Control Legal Consortium. (2006).~~ Public Health Law Center (2006). *The Verdict Is In: Findings from United States v. Phillip Morris, The Hazards of Smoking*. University of California —San Francisco. Truth Tobacco Industry Documents, <https://www.industrydocumentslibrary.ucsf.edu/tobacco/>; Xu, X., Bishop, E. E., Kennedy, S. M., Simpson, S. A., & Pechacek, T. F. (2015) Annual ~~h~~Healthcare ~~s~~Spending ~~a~~Attributable to ~~e~~Cigarette ~~s~~Smoking: ~~a~~An ~~u~~Update. *American Journal of Preventive Medicine*, 48(3), 326–333; Maciosek, M. V., LaFrance, A. B., St Claire, A., Xu, Z., Brown, M., & Schillo, B. A. (2020). *Twenty-Year Health and Economic Impact of Reducing Cigarette Use: Minnesota 1998–2017*. *Tobacco Control*, 29(5), 564–569, copies of which are adopted by reference.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.020 Definitions And Interpretations - Tobacco Regulations

1. 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.
2. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD RESISTANT PACKAGING. Packaging that meets the definition set forth in Code of Federal Regulations, Title 16, Section 1700.15(b)(1), as in effect on January 1, 2015, when tested in accordance with the methods described in Code of Federal Regulations, Title 16, Section 1700.20. as in effect on January 1, 2015.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco-related products are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of persons under the age of 21 who purchase or attempt to purchase tobacco-related products~~authorized by this chapter~~. **COMPLIANCE CHECKS** shall also mean the use of persons under the age of 21 who attempt to purchase tobacco-related products 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-related products.

ELECTRONIC DELIVERY DEVICES. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption ~~that can be used by a person to simulate smoking in the delivery of nicotine or any other substance~~ 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 product that has been approved or certified 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 marketed and sold for such an approved purpose.

INDIVIDUALLY PACKAGED. 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 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 definition shall not be considered **INDIVIDUALLY PACKAGED**.

LOOSIES. The common term used to refer to a single or individually packaged cigarette or any other tobacco-related product that has been removed from its packaging and ~~sold individually offered for sale.~~ The term **LOOSIES** does not include ~~individual cigars with a retail price, before any sales taxes, of more than \$2 per cigar 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.~~

MAY. The act referred to is permissive. **MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

NICOTINE OR LOBELIA DELIVERY ~~DEVICES~~ PRODUCT. Any product containing or delivering nicotine or lobelia intended for human consumption, whether natural or synthetic, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section, ~~not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.~~ **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 “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and
Cosmetic Act.

RETAIL ESTABLISHMENT. Any place of business where tobacco-related products are available for sale to the general public. **RETAIL ESTABLISHMENTS** include, but are not limited to, grocery stores, convenience stores, and restaurants.

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

SELF-SERVICE MERCHANDISING. Open displays of tobacco-related products in any manner where any person shall have access to the tobacco-related products, 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-related products between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

SHALL. The act referred to is mandatory.

SMOKING. Inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe or any other lighted or heated product containing, made or derived from nicotine, tobacco, cannabis or other plant, whether natural or synthetic. The term **SMOKING** also includes carrying or using a lighted or heated cigar, cigarette, pipe or activated electronic delivery device.

TOBACCO or TOBACCO PRODUCTS. ~~Includes cigarettes and a~~ 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~~ does not include any nicotine cessation product that has been authorized by the United States 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.

SMOKING LOUNGE. A location licensed to sell tobacco-related products where: (a) except for a bona fide sale of a ~~smoking~~smoking tobacco-related device or electronic delivery device, provided or otherwise made available for use by a customer, potential customer or any other person a ~~smoking~~smoking tobacco-related device, electronic delivery device, nicotine or lobelia delivery device, hookah, water pipe or similar device for the purpose of smoking, inhaling, aerosolizing or otherwise consuming~~any~~ tobacco-related products; (b) it is provided in exchange for a fee or any other consideration seating within or access to the indoor area of a ~~tobacco products shop~~retail establishment for the purpose of smoking, inhaling, aerosolizing or otherwise consuming tobacco-related products; or (c) it is permitted within the indoor area the sampling, smoking, inhaling, aerosolizing or consumption of any tobacco-related products ~~which was not furnished by the tobacco products shop on the date and at the time the sampling occurs.~~

TOBACCO-RELATED DEVICES. Any tobacco product as well as a pipe, rolling papers, wrap, ashtray or other device intentionally designed or intended to be used within a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco-related products. **TOBACCO-RELATED DEVICES** includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

TOBACCO-RELATED PRODUCTS. Includes tobacco or tobacco products, tobacco-related devices, electronic delivery devices and nicotine and lobelia delivery devices.

~~**VAPOR LOUNGE.** A location that sells electronic delivery devices where: (a) except for a bona fide sale of a smoking device, provided or otherwise made available for use by a customer, potential customer, or any other person a device or product for the purpose of using an electronic delivery device product; (b) it is provided in exchange for a fee or any other consideration seating within or access to the indoor area of a shop that sells electronic delivery devices; or (c) it is permitted within the indoor area of a shop that sells electronic delivery devices the sampling of any electronic delivery device which was not furnished by the shop on the date and time the sampling occurs.~~

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

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.030 License

1. *License required.* No person shall sell or offer to sell any ~~tobacco-related~~licensed products without first having obtained a license to do so from the city.
2. *Application.* An application for a license to sell ~~tobacco, tobacco-related products~~licensed shall be made on a form provided by the city. 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 city deems necessary. Upon receipt of a completed application, the City Administrator, Clerk/Treasurer shall forward the application to the Police Department for the purpose of conducting a background check on the applicant. The Police Department shall have ten days to complete the background check, and upon its completion shall forward the application and investigation results to the City Council for action at its next regularly scheduled Council meeting. If the Administrator, Clerk/Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
3. *Action.* The City Council may either approve or deny the license, or it may delay action for a 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 Administrator, Clerk/Treasurer shall issue 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 decision.
4. *Term.* All licenses issued under this chapter shall expire on December 31 of each year.
5. *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in SLPC 11.12.120 and SLPC 11.12.130.
6. *Transfers.* All licenses issued under this chapter shall be valid only on 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.
7. *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 chapter.
8. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
9. *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 not more than 60 days before the expiration of the current license.
10. *Issuance as privilege and not a right.* The issuance of a license issued under this section 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.

11.12.040 License Fees

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The annual fee for a license under this chapter shall be established in the city's ordinance establishing fees and charges, as may be amended from time to time. Initial license applications covering a period of less than one year shall be charged a fee calculated on a monthly pro rata basis.

11.12.050 Basis For Denial Of License

1. 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 ground for denial does not mean that the city must deny the license:
 1. The applicant is under the age of 21 years;
 2. The applicant 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 tobacco-related products;
 3. The applicant has had a license to sell tobacco-related products revoked within the preceding 12 months of the date of the application;
 4. The applicant fails to provide any information required on the application, or provides false or misleading information; or
 5. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding this type of license.
2. 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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.060 Unlawful Sales

It shall be a violation of this chapter for any person to sell any tobacco-related product:

1. To any person under the age of 21 years;
2. By means of any type of vending machine, ~~except as may otherwise be provided in this chapter;~~
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-related product and whereby there is not a physical exchange of the tobacco, tobacco-related product between the licensee or the licensee's employee, and the customer, except as may otherwise be provided in this chapter;
4. By means of loosies ~~as defined in SLPC 11.12.020;~~
5. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or other 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; or
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.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.070 Vending Machines Prohibited

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco-related products by the means of a self-service vending machine.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.080 Self-Service Merchandising Prohibited

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco-related products by any means whereby the customer may have access to those 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-related products between the licensee or the licensee's employee~~his or her clerk~~ and the customer. All ~~tobacco,~~ tobacco-related products 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 related products at the time this chapter is adopted shall comply with this section within 90 days.~~ This section shall not apply to retail stores which derive at least 90% of their revenue from tobacco-related products and which cannot be entered at any time by persons younger than 21 years of age.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.090 Licensee Responsibility

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco-related products 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 employee~~clerk~~ to whatever penalties are appropriate under this code, state or federal law, or other applicable law or regulation.

11.12.100 Compliance Checks; Inspections

All licensed premises shall be open to inspection by the City Police Department or other authorized City official during regular business hours the city shall conduct compliance checks from time to time but at least twice per year. The City will conduct at least one two compliance checks that involves the participation of a person between the ages ~~15 and 17 and 20~~ and 20 ~~and at least one compliance check that involves the participation of a person of the ages 18 and 20~~ to enter the licensed premises to attempt to purchase tobacco-related products. Prior written consent to participate is required of their parents or guardians for persons ~~over the age of 15 but less than under the age of~~ under the age of 18 years. Persons under the age of 21 used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel. Persons under the age of 21 used for compliance checks shall not be guilty of an unlawful purchase or attempted purchase, nor the unlawful possession of ~~tobacco,~~ tobacco-related products when those items are obtained or attempted to be obtained as a part of the compliance check. No person under the age of 21 used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons under the age of 21 lawfully engaged in a compliance check shall answer all questions about their 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, or training purposes, or required for the enforcement of a particular state or federal law.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.110 Unlawful 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 related product to any person under the age of 21.~~
2. ~~Illegal possession. It shall be a violation of this chapter for any person under the age of 21 to have in his or her possession any tobacco related product. This paragraph shall not apply to persons under the age of 21 lawfully involved in a compliance check.~~
3. ~~Illegal use. It shall be a violation of this chapter for any person under the age of 21 to smoke, chew, sniff, or otherwise use any tobacco related product.~~

4. ~~Illegal~~Prohibited furnishing or procurement. It shall be a violation of this chapter for any person ~~under the age of 21~~ years of age or older to purchase or attempt to purchase or otherwise obtain any tobacco-related product, and it shall be a violation of this chapter for any person to purchase or otherwise obtain items of this type on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any tobacco-related product. This paragraph 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 person to attempt to ~~disguise his or her true age by the~~ use any form 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.
6. Child-resistant packaging of liquid used in electronic delivery devices~~Liquid packaging. Effective January 1, 2015, i~~It shall be a violation of this section for any licensee to sell any liquid used in electronic delivery devices, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device, that is not in child resistant packaging.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.120 Smoking Lounges

Smoking lounges ~~and vapor lounges~~ are prohibited.

11.12.130 Violations And Penalty

1. *Misdemeanor prosecution.* Nothing in this chapter shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter by a person 21 years of age or older within five years of a previous conviction under the ordinance.
2. *Violations.*
 1. *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, an administrative offense citation pursuant to SLPC 3.20, setting forth the alleged violation and the alleged violator's right to be heard on the accusation.
 2. *Hearing.* The person accused of violating this chapter may request a hearing in writing within ~~14~~10 business days of receipt of the notice of violation, and a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.
 3. *Hearing officer.* The Administrator, Clerk/Treasurer or his or her designee shall serve as the hearing officer.
 4. *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under 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, those findings shall be recorded and a copy provided to the acquitted accused violator.
 5. *Appeal.* Appeals of any decision made by the hearing officer shall be made to the City Council in writing within ~~seven~~10 business days of receipt of the hearing officer's decision. The decision of the City Council shall be final.
 6. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
 7. Costs. If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000 must be paid by the person requesting the hearing.
3. *Administrative penalties.*

1. *Licenseses.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of ~~\$75300~~ for a first violation of this chapter, ~~\$200600~~ for a second offense at the same licensed premises within a ~~2436~~-month period, and ~~\$2501,000~~ for a third or subsequent offense at the same location within a ~~2436~~-month period. After the third offense, the license is automatically suspended for seven days commencing the day following the date of the third offense. In addition to the seven-day suspension, the City Council shall conduct a hearing at the regular Council meeting following the third violation to determine whether the license should be suspended longer than seven days. Any additional suspension may be for the remainder of the license period or 90 days, whichever is greater. Upon a fourth violation at the same location within a ~~2436~~-month period, the license will be revoked.
2. *Other individuals.* Other individuals, other than persons under the age of 21 regulated by Paragraph C, found to be in violation of this chapter shall be charged an administrative fine of \$50.
3. *Persons under the age of 21.* ~~Persons under the age of 21 found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco related products, may be referred to the Anoka County Attorney's Office.~~ Persons under the age of 21 who use a false identification to purchase or attempt to purchase tobacco-related 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 with 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.
4. *Statutory penalties.* If the administrative penalties authorized to be imposed by M.S. § 461.12, as it may be amended from time to time, differ from these established in this section, then the statutory penalties shall prevail.

HISTORY

Amended by Ord. [463](#) on 3/16/2020

11.12.140 Exceptions And Defenses

1. Nothing in this division shall prevent the providing of licensed products to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony.
2. It shall be an affirmative defense to the violation of this division for a person to have reasonably relied on proof of age as described by state law.