

AMENDED ORDINANCE NO. 102

TOBACCO LICENSING AND SALES

THE COUNCIL OF THE CITY OF NEW YORK MILLS, MINNESOTA,
HEREBY ORDAINS:

1. License.

- A. No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco product at any place in the City without first obtaining a license from the City. "Tobacco" is defined as and includes: cigarettes; 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 and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices; and 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.
- B. The annual license fee for retail tobacco license shall be set by the Council in a fee schedule which is adopted during the first meeting of each year. All retail tobacco licenses shall be valid for one calendar year from the date the license is issued.
- C. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

2. Sales Prohibited to Minors.

No person shall sell or offer to sell any tobacco or tobacco product to any person under eighteen (18) years of age.

3. Administrative Penalties.

- A. If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this ordinance, the license shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation; an administrative penalty of \$250 must be imposed for a third violation at the same location within 24 months; and the licensee's authority to sell tobacco at the location must be suspended for not less than seven (7) days. No suspension or penalty may take effect until the license has received

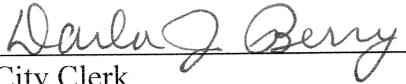
notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the City to conduct the hearing.

- B. An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the City to conduct the hearing.
 - C. It is an affirmative defense to the charge of selling tobacco to a person under the age of 18 years in violation of this ordinance that the licensee or individual making the sale relied in good faith upon proof of age as follows:
 - 1. A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; or
 - 2. A valid military identification card issued by the United States Department of Defense; or
 - 3. In the case of a foreign national, from a nation other than Canada, by a valid passport.
4. **Self-Service Sales**
- A. No license shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without intervention of a store employee.
 - B. Cartons and other multipack units may be offered and sold through open displays accessible to the public.
 - C. Section 4 (B) of this ordinance will expire upon the effective date and implementation of Code of Federal Regulations, Title 21, Part 897.16 (c).
 - D. The self-service restrictions described in this Section 4 shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.
5. **Vending Machine Sales.** No person shall sell tobacco products from vending machines. This section does not apply to vending machines in facilities that cannot be entered at any time by persons younger than 18 years of age.

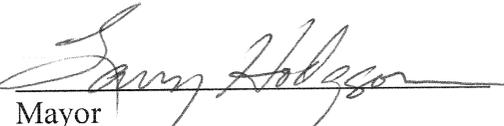
6. **Compliance Checks.** The City shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minnesota Statutes Section 609.685. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority.

This ordinance shall become effective after its passage and publication.

Passed by the New York Mills City Council this 9th day of November, 2010.



City Clerk



Mayor

Published in the East Otter Tail Focus on November 18, 2010