

**FRIDLEY CITY CODE**  
**CHAPTER 12. TOBACCO PRODUCTS**  
(1084)

**12.01. DEFINITION OF TERMS**

The following definitions shall apply in the interpretation and application of this chapter and the following words and terms, wherever they occur in this chapter, are defined as follows:

1. “Self Service Merchandising”

This is an open display of tobacco products where the public has access without the intervention of an employee.

2. “Tobacco Product”

This includes cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flower, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos, shorts, refuse strips, clippings, cuttings and sweepings of tobacco prepared in such manner as to be suitable for chewing, sniffing or smoking in a pipe, rolling paper or other tobacco related devices.

**12.02. LICENSE REQUIRED**

No person shall directly, by coin machine, or otherwise, keep for retail sale, sell at retail, or otherwise dispose of, any cigarette, cigarette wrapper, tobacco, or tobacco products at any place in the City unless they have obtained a license therefor as provided herein.

**12.03. APPLICATION FOR LICENSE: GRANTING OF LICENSE BY COUNCIL;  
ISSUANCE OF LICENSE BY CLERK**

Application for such license shall be made to the City Clerk and shall state the full name and address of the applicant, the location of the building to be occupied by the applicant in the conduct of his business, the kind of business to be conducted, and such other information as the City Clerk may require. The license shall be granted by the City Council and issued by the City Clerk upon payment of the required fee.

**12.04. LICENSE FEE; TERM; DATE**

The annual license fee and expiration date shall be as provided in Chapter 11 of this Code. Licenses are not transferable.

**12.05. DISPLAY OF LICENSE ON PREMISES**

Every such license shall be openly displayed in the place of business to which it has been issued.

## 12.06. TRAINING

Every retailer requesting a license under this ordinance shall implement a training program for employees regarding laws relating to the sale of tobacco products. Every licensee shall certify on its annual tobacco application that all employees have been trained to comply with state laws regarding the sale of tobacco products.

## 12.07. PROHIBITED ACTS

A. No person shall sell, give away, or otherwise furnish any cigarette, cigarette paper, tobacco, or tobacco products to any person under the age of eighteen years.

B. No person shall keep for sale, sell, or dispose of any cigarette or other tobacco product containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug, except nicotine.

C. No person shall sell or dispense any tobacco product through the use of a vending machine, unless the vending machine is electronically activated for each transaction by the licensee or a person in their employ, or unless the vending machine is in a nonpublic area with no minor access as verified by a premises survey conducted by the Fridley Police Department.

D. No person shall offer for sale any tobacco product by means of self service merchandising, unless the display is in direct view of and in no case more than 20 feet from the primary cashier and meets one of the following security requirements: within three feet of the cashier or, in an enclosed case which registers an audible alarm when opened or, in a totally controlled separate area, or an approved electronic security system is in place. The exception requirements must be verified by a premises survey conducted by the Department of Public Safety.

E. Every licensee shall be responsible for the conduct of its employees while on the licensed premises and any sale or other disposition of tobacco products by an employee to a person under 18 years of age shall be considered an act of the licensee for purposes of imposing an administrative penalty, license suspension, or revocation.

## 12.08. ADMINISTRATIVE OFFENSES

A. Administrative Civil Penalties: Administrative offense procedures established pursuant to this chapter are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of this ordinance. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses.

1. Individual. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with law. Likewise, the City, at its discretion, may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation.

2. Licensee. At any time prior to the payment of the administrative penalty as is provided for hereafter, the licensee may withdraw from participation in the procedures in which event the City may permanently revoke the licensee's tobacco license in accordance with law. Likewise, the City, in its discretion, may revoke the licensee's tobacco license in the first instance. In the event a licensee participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will suspend the licensee's tobacco license in accordance with section 12.08 b of this ordinance.

B. Notice. Any officer of the Fridley Police Department shall, upon determining there has been a violation, notify the violator of the violation. Said notice shall set forth the nature, date and time of violation, the name of the officer issuing the notice and the amount of the scheduled penalty.

C. Payment. Once such notice is given, the alleged violator may, within twenty (20) days of the time of issuance of the notice pay the amount set forth on the notice, or may request a hearing in writing, as provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

D. Hearing. Any person contesting an administrative offense pursuant to this Chapter may request a hearing before the Hearing Examiner. Such request shall be filed in writing with the office of the Public Safety director within twenty (20) days of the offense. The Public Safety Director shall notify the Hearing Examiner, who will notify the licensee of the date, time, and place of hearing. The hearing shall be conducted no more than twenty (20) days after the Hearing Examiner receives notice of the request, unless a later date is mutually agreed to by the Hearing Examiner, the licensee, sales clerk and the City. Within ten (10) days after such hearing, the Hearing Examiner shall affirm, repeal, or modify the charge against the licensee or sales clerk. Any person aggrieved by the decision of the Hearing Examiner may appeal with the Public Safety Director within twenty (20) days of receiving notice of the Hearing Examiner's decision. At its next available regular meeting following the filing of a notice of appeal, the Council shall review the decision and findings of fact of the Hearing Examiner and shall affirm, repeal or modify that decision.

E. Hearing Examiner. The position of Hearing Examiner is hereby created. The City Manager may, at his discretion and with the approval of the Council, contract with third parties for the furnishing of all services of the Hearing Examiner as contained in this Chapter and set the rate of compensation therefor.

F. Qualifications. The Hearing Examiner shall be an individual trained in law; however, it shall not be required that the Hearing Examiner be currently licensed to practice law in the State of Minnesota.

G. Duties: The Hearing Examiner shall have the following duties:

1. Set dates and hear all contested cases.
2. Take testimony from all interested parties.
3. Make a complete record of all proceedings including findings of fact and conclusions of law.
4. Affirm, repeal or modify the penalty assessed.

H. Failure to Pay. In the event a party charged with an administrative penalty fails to pay the penalty, if an individual, the party will be charged with the criminal offense. If a licensee, the Council will suspend the licensee's tobacco license.

I. Disposition of Penalties. All penalties collected pursuant to this Chapter shall be paid to the City's treasurer and will be deposited in the City's general fund.

## 12.09. VIOLATIONS

A. Administrative Civil Penalties: Individuals. Any person who sells any tobacco product to a person under the age of 18 years is subject to an administrative penalty: and any person under the age of 18 who attempts to purchase a tobacco product is subject to an administrative penalty. The administrative penalties are as follows:

First violation. The penalty for the first violation is \$250.00.

Second violation within 12 months. The penalty for the second violation is \$500.00.

Third violation within 12 months. The penalty for the third violation is \$750.00.

B. Administrative Civil Penalties; Licensee. If a licensee or an employee of a licensee is found to have sold tobacco to a person under the age of 18 years, the licensee shall be subject to an administrative penalty as follows:

First violation. The penalty for the first violation is \$500.00. If the fine is not paid within 20 days the City may suspend the license to sell tobacco products for a period not to exceed 10 days.

Second violation within 12 months. The penalty for the second violation is \$1000.00. If the fine is not paid within 20 days the City may suspend the license to sell tobacco products for a period not to exceed 30 days.

Third violation within 12 months. The city may permanently revoke the tobacco license.

C. Defense. It is a defense to the charge of selling tobacco to a person under the age of 18 years, that the licensee or individual, in making the sale, reasonably and in good faith relied upon representation of proof of age described in State Statute Section 340A.503. subdivision 6, paragraph (a).

D. Exemption. A person, no younger than 15 and no older than 17, may be enlisted to assist in the tests of compliance, provided that written consent from the person's parent or guardian has been obtained and that the person shall at all times act only under the direct supervision of a law enforcement officer or an employee of the licensing department, or in conjunction with a compliance check effort that has been pre-approved by the Fridley Police department. A person who purchases or attempts to purchase tobacco-related products while in this capacity is exempt from the penalties imposed by subdivisions (a) above.

E. Revocation. The City Council has the authority to revoke any license as noted in 11.08.