

ORDINANCE NO. 55

TOBACCO ORDINANCE

The Council of the City of Plato, Minnesota, hereby Ordains:

Section 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, cuttings 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. (Source: Minnesota Statutes Section 609.685)
- B. The annual license fee for a retail tobacco license shall be \$50.00 per year. All retail tobacco licenses shall be valid for one calendar year from the date that 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.

Section 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. (Source; Minnesota Statutes Section 608.685).

Section 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 licensee shall be charged an administrative penalty of \$75.00. An administrative penalty of \$200.00 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, and administrative penalty of \$250.00 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No suspension or penalty may take effect until the licensee 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. (Source: Minnesota Statutes Section 461.12(2), 1997).
- B. An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50.00. 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. (Source: Minnesota Statutes Section 461.12(3), 1997).
- 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, other 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.

(Source; Minnesota Statutes Secion 461.12(6),1997; Minnesota Statutes Section 340A.503, by reference).

- D. Minors who purchase, possess or consume tobacco products shall be:
1. First time offence. Be referred to a diversion program operated by the McLeod County Attorney's Office, McLeod County Court Services Department.
 2. Second time offense. Be petitioned or ticketed into juvenile court as a petty offender, and receive any disposition authorized by law for petty offenders.

(Note: The new state law includes the following requirement: "The licensing authority shall consult with interested educators, parents, childre, and representatives of the court system to develop alternative penalties for minors who purchase, possess, and consume tobacco. The licensing authority and the interested persons shall consider a variety of options, including, but not limited to, tobacco free education programs, notice to schools, parents, community service, and other court diversion programs." (Source; Minnesota Statutes Section 461.12(2), 1997).

Section 4. Self-Service Sales.

- A. No licensee shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee. (Source: Minnesota Statutes Section 461.18(1)(a), 1997).
- B. Cartons and other multipack units may be offered and sold through open displays accessible to the public. (Source: Minnesota Statutes Section 461.18(1)(b), 1997).
- 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). (Source: Minnesota Statutes Section 461.18(1)(c) and 461.18(3), 1997).
- D. The self-service restrictions described in the 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. (Source: Minnesota Statutes Section 461.18(1)(d), 1997).

Section 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. (Source: Minnesota Statutes Section 461.18(2), 1997).

Section 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. (Source: Minnesota Statutes Section 461.12(5), 1997).

This Ordinance shall become effective after its passage and publication.

Adopted this 15th day of April 1998.

Bob Becker, Mayor

Attest: Kathleen Stuedemann, Clerk

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