

ARTICLE II. - TOBACCO^[2]

Footnotes:

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State Law reference— Local regulation of tobacco sales, Minn. Stat. §§ 461.12, 461.19.

DIVISION 1. - GENERALLY

Sec. 30-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery products or devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices 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, tobacco products, tobacco-related devices and nicotine or lobelia delivery products or devices.

Electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. 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.

Indoor area means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

Individually packaged means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products include but are not 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 means the common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than \$2.00 per cigar.

Minor means any natural person who has not yet reached the age of 18 years.

Moveable place of business refers to 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 products or devices means any product containing or delivering nicotine, lobelia or any other substance intended for human consumption, or any part of such a product or device, including electronic delivery devices and related products as defined herein, that is not tobacco as defined in this section. Nicotine or lobelia delivery products or devices do not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation treatment, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Retail establishment means any place of business where tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices are available for sale to the general public.

Retail establishments include but are not limited to grocery stores, convenience stores, and restaurants, and drug stores.

Sale means any transfer of goods for money, trade, barter, or other consideration.

Self-service merchandising means open displays of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices, 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, tobacco product, tobacco-related device, or nicotine or lobelia delivery products or devices between the customer and the licensee or employee. Self-service merchandising does not include vending machines.

Smoking means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

Tobacco or tobacco products mean any substance or item containing tobacco leaf, including but not limited to cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking. Tobacco and tobacco products also include 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. 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.

Tobacco products shop means a retail establishment with an entrance door opening directly to the outside that derives more than 70 percent of its gross revenue from the sale of tobacco, tobacco products, tobacco-related devices, and/or nicotine or lobelia delivery products or devices. This includes but is not limited to the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Tobacco-related devices means any tobacco products as well as pipes, rolling papers, and other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, ingesting, absorbing, or smoking of tobacco or tobacco products.

Vending machine means any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery products or devices.

(Code 1986, § 465:05; Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012; Ord. No. 964, § 1, 11-18-2014)

Cross reference— Definitions generally, § 1-2.

Sec. 30-27. - Violations.

- (a) *Notice.* Upon discovery of a suspected violation of this article, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his/her right to be heard on the accusation.

- (b) *Hearing* . If a person accused of violating this article so requests in writing filed with the city clerk, a hearing shall be scheduled, the time and place of which shall be published and provided by the city clerk to the accused violator.
- (c) *Hearing officer*. The city council shall serve as the hearing officer.
- (d) *Decision*. If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 30-28, 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, such findings shall be recorded and a copy provided to the acquitted accused violator.
- (e) *Appeals* . Appeals of any decision made by the hearing officer shall be filed in the district court for the county in which the alleged violation occurred.
- (f) *Misdemeanor prosecution* . Violation of this article shall be a misdemeanor offense. In addition to any civil penalties imposed under this article, nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this article. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed, except that the city council may suspend, revoke, or not renew a license in appropriate circumstances.
- (g) *Continued violation*. Each violation, and every day in which a violation occurs or continues, shall constitute separate offenses.

(Code 1986, § 465:55; Ord. No. 964, § 1, 11-18-2014)

State Law reference— Administrative penalties, Minn. Stat. § 461.12, subds. 2, 3; appeals, Minn. Stat. § 461.12, subd. 7.

Sec. 30-28. - Penalties.

- (a) *Licensees* . Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine of \$200.00 for a first violation of this article, \$400.00 for a second offense at the same licensed premises within a 24-month period, \$800.00 for a third offense at the same location within a 24-month period, and \$1,600.00 for a fourth offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days; and after the fourth offense, the license shall be suspended for not less than 30 days. For the purposes of this section, "within a 24-month period" means a period, two years in duration, which begins to toll on the date of the occurrence of the first violation, and ends two years from the date of the first violation. If no further violations occur within two years following the first violation, any violations occurring after the expiration of the two-year period will not be cumulative with regards to the first violation.
- (b) *Other individuals* . Individuals other than licensees, and other than minors regulated by subsection (c) of this section, found to be in violation of this article shall be charged an administrative fine of \$50.00. The licensee will be responsible for ensuring that an employee pays the fine or takes necessary steps to appeal the penalty.
- (c) *Minors*. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase tobacco, tobacco products, or tobacco-related devices shall be charged an administrative fine of \$50.00 and shall be subject to any policy separately adopted by the city council with regard to administrative penalties for minors.
- (d) *Misdemeanor*. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.

(Code 1986, § 465:60; Ord. No. 964, § 1, 11-18-2014)

Sec. 30-29. - Purpose.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco products, tobacco-related devices, and nicotine or lobelia delivery products or devices, and such sales, possession, and use are violations of both state and federal laws; because studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery products or devices for the purpose of enforcing and furthering existing laws; to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery products or devices; and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 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 Center for Disease Control in their study "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997," and of the following medical professionals in these medical journals: Khuder SA, et al., "Age at Smoking Onset and its Effect on Smoking Cessation," *Addictive Behavior* 24(5):673-7, September-October 1999; D'Avanzo B, et al., "Age at Starting Smoking and Number of Cigarettes Smoked," *Annals of Epidemiology* 4(6):455-59, November 1994; Chen, J & Millar, WJ, "Age of Smoking Initiation: Implications for Quitting," *Health Reports* 9(4):39-46, Spring 1998; Everett SA, et al., "Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students," *Preventive Medicine*, 29(5):327-33, November 1999, copies of which are adopted by reference.

(Code 1986, § 465:00; Ord. No. 964, § 1, 11-18-2014)

Sec. 30-30. - Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

(Code 1986, § 465:65; Ord. No. 964, § 1, 11-18-2014)

State Law reference— Proof of age as defense, Minn. Stat. §§ 340A.503, subd. 6, 461.12, subd. 6.

Sec. 30-31. - Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device:

- (1) To any person under the age of 18 years.
- (2) By means of any type of vending machine.
- (3) By means of self-service methods whereby the customer does not need to make an oral or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product device between the licensee or the licensee's employee and the customer, except as provided in subsection 30-33(b).
- (4) By means of loosies as defined in section 30-26.
- (5) Containing opium, morphine, jimsonweed, belladonna, Strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or 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.

- (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, or other regulation.

(Code 1986, § 465:25; Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012; Ord. No. 964, § 1, 11-18-2014)

Sec. 30-32. - Minors.

Unless otherwise provided, the following acts shall be a violation of this article:

- (1) *Illegal sales* . It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product, tobacco-related device or nicotine or lobelia product delivery device to any minor.
- (2) *Illegal possession* . It shall be a violation of this article for any minor to have in his/her possession any tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (3) *Illegal use* . It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device.
- (4) *Illegal procurement* . It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device, and it shall be a violation of this article for any person to purchase or otherwise obtain such item on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco-related device or nicotine or lobelia delivery product or device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (5) *Use of false identification* . It shall be a violation of this article for any minor to attempt to disguise his/her true age by the use 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) *Liquid packaging - child resistant* . Effective January 1, 2015, it shall be a violation of this section for any licensee to sell any liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in a nicotine or lobelia delivery device, that is not in child resistant packaging as required by applicable federal or state law.

(Code 1986, § 465:50; Ord. No. 929, 2-21-2012; Ord. No. 964, § 1, 11-18-2014)

State Law reference— Sale of tobacco to children, Minn. Stat. § 609.685.

Sec. 30-33. - Self-service sales.

- (a) *Prohibited sales* . It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products, tobacco-related devices or nicotine or lobelia delivery products or devices by any means whereby the customer may have access to such 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 product, tobacco-related device or the nicotine or lobelia delivery product or device between the licensee or his/her clerk and the customer. All tobacco, tobacco products, tobacco-related devices and nicotine or lobelia delivery products or devices 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.

- (b) *Exception* . This section shall not apply to tobacco products shops where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time. This prohibition shall be clearly posted with a professional grade sign at the store entrance. The city may require a certified audit or other method or such other documentations as acceptable to the city to determine and verify the percentage of revenue from tobacco, tobacco-related products or devices, or nicotine or lobelia delivery products or devices for purposes of eligibility or continued eligibility of this exception.

(Code 1986, § 465:35; Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012; Ord. No. 964, § 1, 11-18-2014)

State Law reference— Self-service sales, Minn. Stat. § 461.18.

Sec. 30-34. - Vending machines.

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices by the means of a vending machine.

(Code 1986, § 465:30; Ord. No. 964, § 1, 11-18-2014)

Secs. 30-35—30-60. - Reserved.

DIVISION 2. - DEALER'S LICENSE

Sec. 30-61. - Required.

No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related device, or nicotine or lobelia delivery products or devices without first having obtained a license to do so from the city.

(Code 1986, § 465:10; Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

State Law reference— Authority to require license, Minn. Stat. § 461.12, subd. 1.

Sec. 30-62. - Application.

An application for a license to sell tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices shall be made to the city clerk 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 and nature of the business for which the license is sought, the other information as required by the application form, and any additional information the city deems necessary. Upon receipt of a completed application, the city clerk shall forward the application to the chief of police for a background check on the applicant, which shall be completed and report made to the city clerk. Upon receipt of a report from the chief of police, the city clerk shall forward the application and the report to the city council for action at its next regularly scheduled meeting. If the city clerk shall determine that an application is incomplete, he/she shall return the application to the applicant with notice of the information necessary to make the application complete.

Every person applying for a license under this article shall certify on the annual license application that the person has implemented a training program for employees regarding laws related to the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices and has trained all employees to comply with state and federal laws and/or regulations as well as this article regarding the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices.

(Code 1986, § 465:10(1); Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

Sec. 30-63. - Approval or denial.

The city council may either approve, approve with conditions, or deny the license or it may delay action for a reasonable period of time as necessary to complete any additional investigation of the application or the applicant it deems necessary. If the council shall approve the license, the city clerk shall issue the license to the applicant. If the 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 council's decision.

(Code 1986, § 465:10(2); Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012)

Sec. 30-64. - Basis for denial of license.

The following shall be grounds for denying the issuance or renewal of a license required under this division, provided that, except as may otherwise be required 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 18 years.
- (2) The applicant, owner, partner, officer or manager has been convicted within the past five years of any violation of a federal, state, or local law, ordinance, or other regulation relating to tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices.
- (3) The applicant, owner, partner, officer or manager has had a license to sell tobacco, tobacco products, tobacco-related devices or nicotine or lobelia delivery products or devices revoked or suspended within the preceding 24 months of the date of application.
- (4) The applicant fails to provide any information required on the application or provides false or misleading information.
- (5) The applicant owner, partner, officer or manager is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.
- (6) No license shall be granted or renewed for operation on any premises on which taxes, assessments, service charges, or other financial claims of the city or of the state are delinquent. The city council may waive strict compliance with this subsection. No waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one year after they become due, except, in the sole discretion of the city council under the circumstances presented, in instances of a lessee of leased property upon which taxes are delinquent.

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.

(Code 1986, § 465:20; Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

Sec. 30-65. - Moveable place of business.

No license required under this division shall be issued to a moveable place of business. Only fixed-location businesses shall be eligible to be licensed under this division.

(Code 1986, § 465:10(6))

Sec. 30-66. - Fees.

No license shall be issued under this division until the appropriate license fee shall be paid in full. The license fee shall be the amount duly established by resolution of the city council from time to time. The license fee shall not be prorated for licenses issued for less than a full year.

(Code 1986, § 465:15)

Sec. 30-67. - Term.

All licenses issued under this division shall be valid until December 31 of the year of issue.

(Code 1986, § 465:10(3))

Sec. 30-68. - Renewal.

The renewal of a license issued under this division 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 90 days before the expiration of the current license. The issuance of a license under this division 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.

(Code 1986, § 465:10(8); Ord. No. 964, § 2, 11-18-2014)

Sec. 30-69. - Transferability.

Every license issued under this division 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.

(Code 1986, § 465:10(5); Ord. No. 929, 2-21-2012)

Sec. 30-70. - Responsibility of licensee.

Every person issued a license under this division shall be responsible for the actions of his/her employees in regard to the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices 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 licensee's employee(s) to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Code 1986, § 465:40; Ord. No. 916, 2-15-2011; Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

Sec. 30-71. - Compliance checks and inspections.

- (a) All premises licensed under this division shall be open to inspection by the city police or other authorized city official during regular business hours.
- (b) From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by city-designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his/her employee and shall produce any identification, if any exists, for which he/she is asked.
- (c) 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.

(Code 1986, § 465:45; Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

State Law reference— Compliance checks, Minn. Stat. § 461.12, subd. 5.

Sec. 30-72. - Display.

All licenses issued under this division shall be posted and displayed in plain view of the general public on the licensed premises.

(Code 1986, § 465:10(7))

Sec. 30-73. - Revocation, suspension or non-renewal.

Every license holder under this article will either be subject to a monetary penalty or in extenuating circumstances have their license revoked, suspended, or not renewed by the city council according to the penalty schedule and procedures as provided in sections 30-27 and 30-28, for any of the following reasons:

- (1) Violation of any provision of this article or section 50-89, drug paraphernalia.
- (2) Other good cause related to the business of selling or furnishing tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices.

(Code 1986, § 465:10(4); Ord. No. 964, § 2, 11-18-2014)

Editor's note— Ord. No. 964, § 2, adopted Nov. 18, 2014 amended § 30-73 and in so doing changed the title of said section from "Revocation or suspension" to "Revocation, suspension or non-renewal," as set out herein.

Sec. 30-74. - Smoking and sampling prohibited.

Pursuant to Minn. Stat. § 144.417, smoking or otherwise sampling of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery products or devices is prohibited within a retail establishment and shall not be permitted by the licensee and no person shall smoke or sample the same within the indoor area of any retail establishment with a retail tobacco license.

(Ord. No. 929, 2-21-2012; Ord. No. 964, § 2, 11-18-2014)

Editor's note— Ord. No. 964, § 2, adopted Nov. 18, 2014 amended § 30-73 and in so doing changed the title of said section from "Smoking" to "Smoking and sampling prohibited," as set out herein.

Sec. 30-75. - License conditions.

Each license issued under this article is subject to all of the following conditions:

- (1) The licensee must fully light the interior of the retail establishment during business hours.
- (2) The licensee must fully cooperate with representatives from the city when present at the retail establishment for city business purposes.
- (3) The licensee must maintain clean and clear front and rear entrances of the retail establishment.
- (4) The licensee may not supply matches to non-purchasing customers.
- (5) The licensee must promptly remove any graffiti on the exterior of the retail establishment.

(Ord. No. 964, § 2, 11-18-2014)

Sec. 30-76. - Other license conditions for tobacco products shops.

In addition to the license conditions required in section 30-75, each license issued under this article for a tobacco products shop is subject to all of the following conditions:

- (1) The licensee must post signs in visible locations that prohibit loitering inside or near the front entrance of the retail establishment.
- (2) The sales counter, store entrance, and interior of the retail establishment shall be visually recorded with a videotape or similar device at a quality level that allows the visual identification of patrons and employees. The recordings shall be maintained and made available to the police for 15 days before being reused, erased or otherwise deleted.
- (3) The licensee must post a sign at front entrance of the retail establishment that prohibits minors from entering the retail establishment.
- (4) The front windows of the retail establishment must be clear, untinted, and unobstructed.
- (5) Each day of business, the licensee must inspect the parking lot and entrances of the retail establishment for litter and properly dispose of such litter.

(Ord. No. 964, § 2, 11-18-2014)