

# PRACTICAL APPROACHES AND BEST PRACTICES FOR TOBACCO RETAIL LICENSING ENFORCEMENT IN MINNESOTA

# YOUR MODERATOR AND PRESENTERS

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# THE PUBLIC HEALTH LAW CENTER



# LAND ACKNOWLEDGEMENT

We acknowledge our presence in the tribal and treaty homelands of the Dakota Oyate since time immemorial. These lands are home to the Sisseton, Wahpeton, Mdewakanton and Wahpekute Dakota peoples. There are four Tribal Nations who remain in these lands as tribal governments, the Lower Sioux Indian Community, the Prairie Island Indian Community, the Shakopee Mdewakanton Sioux Community, and the Upper Sioux Community. We acknowledge and respect the Dakota Oyate as part of the larger Sioux Nation, traditionally known as the Seven Council Fires, the Oceti Sakowin. We also acknowledge the regional territory of the Ojibwe/Chippewa/Anishinaabe peoples in these tribal homelands. There are seven Tribal Nations who remain in these lands as tribal governments, the Bois Forte Band of Chippewa, the Leech Lake Band of Ojibwe, the Fond du Lac Band of Lake Superior Chippewa, the Grand Portage Band of Lake Superior Chippewa, the Mille Lacs Band of Ojibwe, the Red Lake Band of Chippewa Indians, and the White Earth Nation. We also acknowledge the ancestral connection of the Ho-Chunk Nation to this region. In these tribal lands, Indigenous peoples have joined together in community, stewardship, and spirituality upholding traditional values and legal principles.

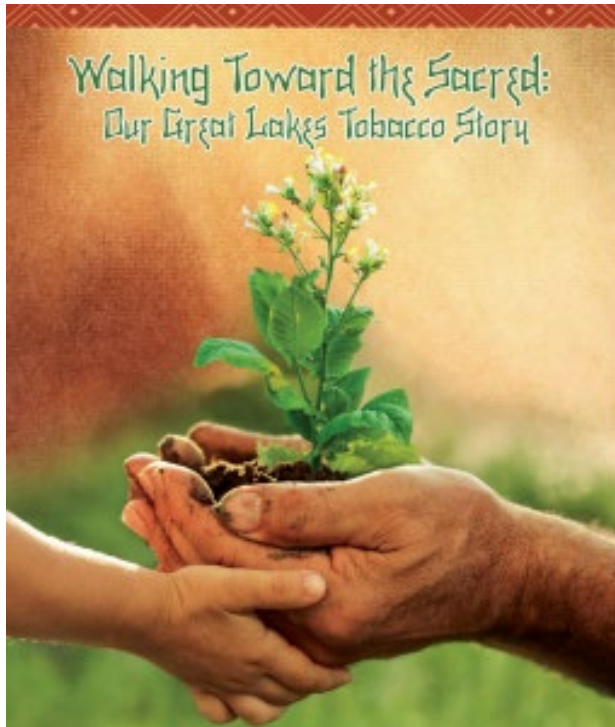
Developed by:

**Native American Law and Sovereignty Institute (NALS Institute)**

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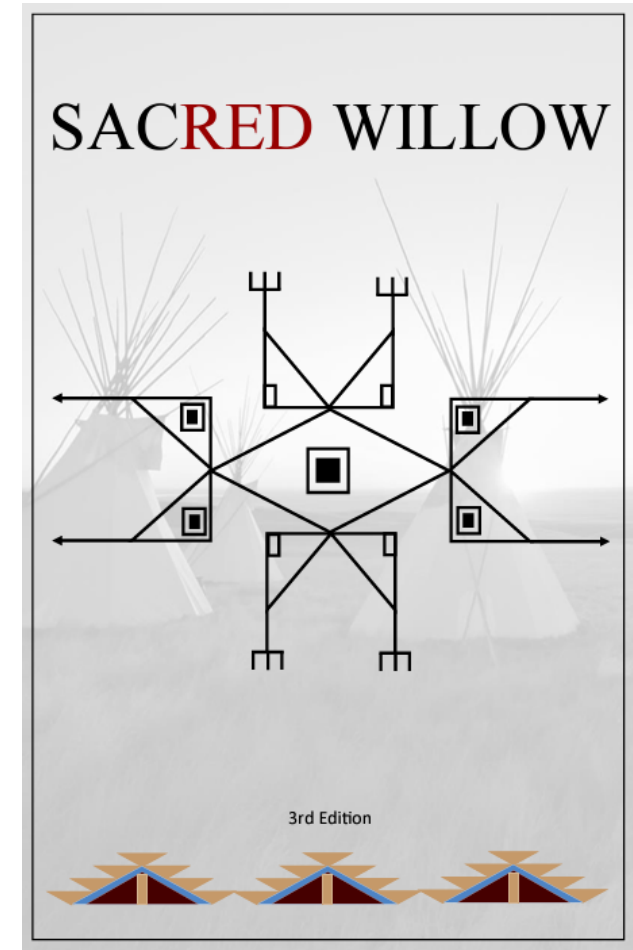
# COMMERCIAL TOBACCO IS NOT TRADITIONAL TOBACCO



[Resource: Walking Toward the Sacred](#)









Top: Red Willow, Sacred Willow Publication.  
Bottom: *Nicotiana rustica*, Solanaceae, Mapacho, flower.  
Botanical Garden KIT, Karlsruhe, Germany. Wikimedia Commons.



[Resource: Sacred Willow](#)

# LEGAL TECHNICAL ASSISTANCE

-  Legal Research
-  Policy Development, Implementation, Defense
-  Publications
-  Trainings
-  Direct Representation
-  Lobby

**EQUALITY:**

Everyone gets the same – regardless if it's needed or right for them.



**EQUITY:**

Everyone gets what they need – understanding the barriers, circumstances, and conditions.



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# AGENDA

- Brief Overview of Tobacco Retail Licensing in Minnesota
- MN Legal Requirements Related to Enforcement of Tobacco Retail Licensing Laws
- Overview of Federal Enforcement of Tobacco Retail Regulations
- Retailer Notice, Education & Training
- Best Practices for Enforcement of Tobacco Retail Licensing Ordinances



# TOBACCO RETAIL LICENSING AND RELATED LAWS IN MINNESOTA

- Federal laws
- State laws
- Tobacco settlement requirements
- Other related regulations

[Tracking Commercial Tobacco  
Laws: A Minnesota Digest \(2024\)](#)



# MINN. STAT. CHAPTER 461

Office of the Revisor of Statutes

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[2023 Minnesota Statutes](#) > [LOCAL GOVERNMENT POLICE POWERS](#) > Chapter 461

## 2023 Minnesota Statutes

### CHAPTER 461. REGULATING SALES OF TOBACCO; TOBACCO-RELATED AND ELECTRONIC DELIVERY DEVICES; AND NICOTINE AND LOBELIA PRODUCTS

Section	Headnote
<a href="#">461.12</a>	MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.
<a href="#">461.13</a>	CIGARETTE LICENSE FEES, APPORTIONMENT.
<a href="#">461.14</a>	[Repealed, <a href="#">1982 c 572 s 3</a> ]
<a href="#">461.15</a>	BLIND PERSONS NOT TO PAY CIGARETTE LICENSES.
<a href="#">461.17</a>	MANUFACTURERS TO REPORT ON CERTAIN SUBSTANCES.
<a href="#">461.18</a>	BAN ON SELF-SERVICE SALES; EXCEPTIONS.
<a href="#">461.19</a>	EFFECT ON LOCAL ORDINANCE; NOTICE.
<a href="#">461.20</a>	SALE OF ELECTRONIC DELIVERY DEVICE; PACKAGING.
<a href="#">461.21</a>	KIOSK SALES PROHIBITED.
<a href="#">461.22</a>	AGE VERIFICATION AND SIGNAGE REQUIRED.

# MINNESOTA STATE LAW: LOCAL LICENSURE REQUIREMENT

## 461.12 MUNICIPAL LICENSE OF TOBACCO, TOBACCO-RELATED DEVICES, AND SIMILAR PRODUCTS.

Subdivision 1. **Authorization.** A town board or the governing body of a home rule charter or statutory city may license and regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices as defined in section 609.685, subdivision 1, and nicotine and lobelia delivery products as described in section 609.6855, and establish a license fee for sales to recover the estimated cost of enforcing this chapter. The county board shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products in unorganized territory of the county except on the State Fairgrounds and in a town or a home rule charter or statutory city if the town or city does not license and regulate retail sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products. The State Agricultural Society shall license and regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products on the State Fairgrounds. Retail establishments licensed by a town or city to sell tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia delivery products are not required to obtain a second license for the same location under the licensing ordinance of the county.

# MINNESOTA STATE LAW: LOCAL AUTHORITY TO GO BEYOND STATE LAW

- **State Law**
  - Cities and counties may enact more restrictive laws

## 461. 19 EFFECT ON LOCAL ORDINANCE; NOTICE.

Sections [461.12](#) to [461.18](#) do not preempt a local ordinance that provides for a **more restrictive** regulation of sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products. A governing body shall give notice of its intention to consider adoption or substantial amendment of any local ordinance required under section [461.12](#) or permitted under this section. The governing body shall take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known address of each licensee or person required to hold a license under section [461.12](#). The notice shall state the time, place, and date of the meeting and the subject matter of the proposed ordinance.

# **MINNESOTA STATE LAW: LICENSEE ADMINISTRATIVE PENALTIES & PERMISSIVE PENALTIES FOR CLERKS**

## **Licensees:**

- 1<sup>st</sup> violation – \$300
- 2<sup>nd</sup> violation within **36 months** of 1<sup>st</sup> – \$600
- 3<sup>rd</sup> or subsequent violations **within 36 months** of 1<sup>st</sup> – \$1,000
  - Suspension of license for at least 7 days
  - Possible revocation of license

## **Clerks and other individuals for underage sales/furnishing:**

- **MAY** be fined – no longer required – no change to amount (up to \$50)

# MINNESOTA STATE LAW

## ENFORCEMENT RELATED PROVISIONS

- License suspension/revocation related to cannabis.  
(Minn. Stat. § [461.12](#) subd. 2a)
- Administrative penalties for individuals selling and furnishing to underage persons. (Minn. Stat. § [461.12](#) subd. 3)
- False ID—requires non-monetary, civil alternative penalties.  
(Minn. Stat. § [609.685](#) subd. 2)
- Compliance checks: minimum one per year; undercover buyer used for compliance checks must be at least 17 and under 21  
(Minn. Stat. § [461.12 Subd. 5](#))

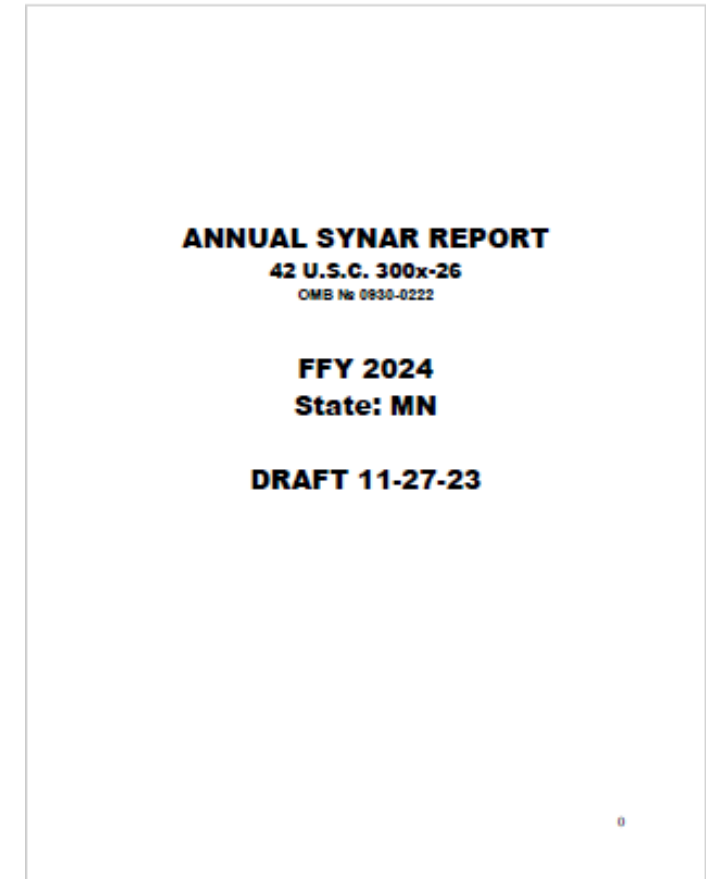
# ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: SYNAR & MLSA COMPLIANCE

- **Historical Background**

- Synar Amendment (July 1992)
  - Decreasing Youth Access to Commercial Tobacco
  - Compliance Required to receive Grants
- Purpose behind Synar
  - Health Problems associated with Underage Use

- **Regulatory Requirements**

- Enforce Underage Access Laws
- Conduct Annual Unannounced Inspections
- Report Sampling Methodology and Results
- Noncompliance Rate Requirement = no more than 20%



# FDA ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: FDA INSPECTIONS

- **Process**
  - FDA contracts with Minnesota Dept. of Human Services to oversee inspections
  - MN DHS utilizes state inspectors to engage in the FDA inspection process
  - Almost every retailer (about 4,300) is inspected every 1 ½ - 2 years
- **Purpose**
  - Enforce Federal Commercial Tobacco laws
- **Inspection Types**
  - **Undercover Buy “UB” Inspection**
    - Underage Person Attempts to Make Purchase of Tobacco Product
  - **“AL” Inspection**
    - Advertising & Labelling Inspection



# FDA ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: FDA INSPECTIONS DATABASE

## Compliance Check Inspections of Brick and Mortar Tobacco Product Retailers

(includes inspection decisions through 03/31/2024)




**Search Inspection Decisions**

<b>Retailer Name</b>	<b>Inspection Outcome</b>	<b>Underage Purchaser (UP) Involved</b>	
<input type="text"/>	All <input type="button" value="v"/>	<input type="button" value="v"/>	
<b>City</b>	<b>Decision Date</b>		<b>Sale to UP</b>
<input type="text"/>	<b>From</b>	<b>To</b>	<input type="button" value="v"/>
	mm/dd/yyyy <input type="button" value="c"/>	mm/dd/yyyy <input type="button" value="c"/>	
<b>State</b>	<b>Zip</b>	<b>Product Type Purchased by UP</b>	
All <input type="button" value="v"/>	<input type="text"/>	<input type="button" value="v"/>	

# FDA ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: FDA INSPECTIONS DATABASE

Retailer Name	Street Address	City	State	Zip	Sale to UP	Product Type	Decision Date ↓	Inspection Outcome
NOEL'S BOTTLE SHOP	6359 BEMIDJI AVENUE NORTH	BEMIDJI	MN	56601	No	N/A	01/15/2024	No Violations Observed
NOEL'S BOTTLE SHOP	6359 BEMIDJI AVENUE NORTH	BEMIDJI	MN	56601	Yes	Cigarettes in a package	11/09/2023	Warning Letter
MY STORE - TURTLE RIVER / ARCO	12471 71 CONNECTION NORTHEAST	BEMIDJI	MN	56601	No	N/A	10/30/2023	No Violations Observed
LAKES MARKET AND LIQUORS / CENEX	13477 IRVINE AVENUE NORTHWEST	BEMIDJI	MN	56601	No	N/A	10/19/2023	No Violations Observed
ORTON'S	555 PAUL BUNYAN DR. N.W.	BEMIDJI	MN	56601	No	N/A	10/19/2023	No Violations Observed
CENEX	7189 PETE LANE NORTHWEST	BEMIDJI	MN	56601	Yes	Cigarettes in a package	09/28/2023	<a href="#">Civil Money Penalty</a>
LAKES MARKET AND LIQUORS / CENEX	13477 IRVINE AVENUE NORTHWEST	BEMIDJI	MN	56601	Yes	Cigar(s)	08/22/2023	Warning Letter
CENEX	120 CONVENIENCE LANE SOUTHEAST	BEMIDJI	MN	56601	No	N/A	07/25/2023	No Violations Observed
CENEX	120 CONVENIENCE LANE SOUTHEAST	BEMIDJI	MN	56601	Yes	Cigarettes in a package	05/23/2023	Warning Letter

# FDA ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: FDA INSPECTIONS DATABASE

Retailer Name	Street Address	City	State	Zip	Sale to UP	Product Type	Decision Date ↓	Inspection Outcome
EXPRESS LANE / BP	217 JOHNSON STREET	WINONA	MN	55987	Yes	Cigar(s)	02/08/2024	<a href="#">Civil Money Penalty</a> 
FREEDOM 53 / BP	920 MANKATO AVENUE	WINONA	MN	55987	Yes	ENDS / E-liquid	02/08/2024	<a href="#">Civil Money Penalty</a> 
CLARK / JLL PUMPHOUSE GAS AND LIQUOR	8390 WEST MAIN STREET	WINONA	MN	55987	Yes	Cigarettes in a package	01/23/2024	Warning Letter
HYVEE WINE AND SPIRITS 1896	1471 WEST SERVICE DRIVE	WINONA	MN	55987	Yes	Cigarettes in a package	12/07/2023	Warning Letter
ISLAND CITY VAPORS	68 WEST 4TH STREET	WINONA	MN	55987	Yes	ENDS / E-liquid	12/05/2023	<a href="#">Civil Money Penalty</a> 
SINCLAIR	1650 WEST SERVICE DRIVE	WINONA	MN	55987	No	N/A	11/16/2023	No Violations Observed
FIFTH STREET LIQUOR	501 5TH ST. W.	WINONA	MN	55987	No	N/A	11/15/2023	No Violations Observed
FLEET FARM	920 E. HWY 61	WINONA	MN	55987	No	N/A	11/15/2023	No Violations Observed
HY-VEE	1475 SERVICE DR	WINONA	MN	55987	No	N/A	11/15/2023	No Violations Observed

# FDA ENFORCEMENT OF FEDERAL TOBACCO REGULATIONS: FDA INSPECTIONS DATABASE

Retailer Name	Street Address	City	State	Zip	Sale to UP	Product Type	Decision Date ↓	Inspection Outcome
NORTH LOOP WINE AND SPIRITS	218 WASHINGTON AVENUE NORTH	MINNEAPOLIS	MN	55401	Yes	Cigarettes in a package	02/06/2024	Warning Letter
AM FOOD MARKET AND TOBACCO	1814 NICOLLET AVENUE	MINNEAPOLIS	MN	55403	Yes	ENDS / E-liquid	02/02/2024	<a href="#">Civil Money Penalty</a> ↗
EAST LAKE LIQUOR STORE	3916 EAST LAKE STREET	MINNEAPOLIS	MN	55406	Yes	Cigarettes in a package	01/30/2024	Warning Letter
GOLDEN TOBACCO	22 WEST 66TH SREET	MINNEAPOLIS	MN	55423	Yes	ENDS / E-liquid	01/30/2024	Warning Letter
HI LAKE LIQUORS	2130 EAST LAKE STREET, UNIT E	MINNEAPOLIS	MN	55407	Yes	Cigarettes in a package	01/30/2024	Warning Letter
HOLIDAY # 332	4601 HIAWATHA AVE.	MINNEAPOLIS	MN	55406	No	N/A	01/30/2024	No Violations Observed
LAST STOP SMOKE SHOP	5801 NICOLLET AVE.	MINNEAPOLIS	MN	55419	No	N/A	01/30/2024	No Violations Observed
LEGACY GLASS	2928 LYNDALE AVE S	MINNEAPOLIS	MN	55408	No	N/A	01/30/2024	No Violations Observed
WINNER GAS / TOBACCO DEPOT	9405 MEDICINE LAKE ROAD	MINNEAPOLIS	MN	55427	Yes	Cigar(s)	01/30/2024	Warning Letter
HOLIDAY 206	7000 WEST LAKE STREET	MINNEAPOLIS	MN	55426	Yes	Cigar(s)	01/25/2024	Warning Letter

# MINNESOTA TOBACCO TAX ENFORCEMENT

## DEPARTMENT OF REVENUE INSPECTIONS

- **Department of Revenue's Role:**

- Education of tax obligations
- Audits/investigations of retailers and suppliers cigarette and tobacco product records
- Assess civil penalties against noncompliant persons
- Seizure of contraband products
- Criminal prosecution of persons evading cigarette and tobacco taxes

<https://www.revenue.state.mn.us/random-compliance-checks-cigarette-and-tobacco-retailers>

- **Inspections**

- Inventory Review
- License Check
- Invoice Review

- **Licensed Distributors List**

- Retailers must buy from a licensed distributor who paid tax on the product

- **Invoices**

- Legible copy – each invoice – retention requirement
- Invoice copy availability
- Hour availability requirement

# ENFORCEMENT BEST PRACTICE

## EDUCATION FIRST



- Education
  - Review state/federal legal requirements
  - Accessible education
  - Education based compliance checks (congratulate & educate)
  - Build relationships
- Fees
  - Support the work
- Process

# ENFORCEMENT BEST PRACTICE – EDUCATION FIRST: THIS IS OUR WATCH



## FDA Educational Program

- Voluntary Program
- Toolkit of Resources for Retailers

# ENFORCEMENT BEST PRACTICE – EDUCATION FIRST: CONGRATULATE AND EDUCATE

- **GOAL – EDUCATION!**
  - Assess sales of licensed products to persons under 21
  - Create opportunity for one-on-one education with retailers
  - Build relationship with retailers to support open communication to facilitate better compliance
  - No penalties are attached to these visits
  - MUST support enforcement check
- Eligible Departments: Local licensing authority (e.g. Public Health/Law Enforcement/Code Enforcement)



Taken by: Glory Song

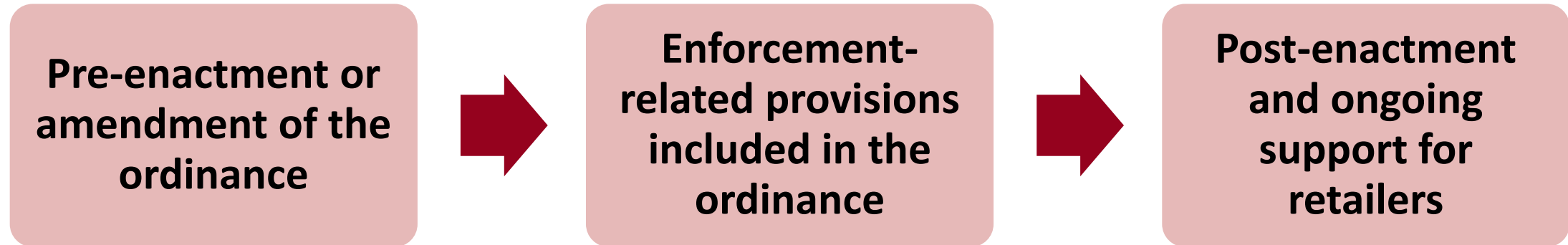


# ENFORCEMENT BEST PRACTICE – EDUCATION FIRST: STOP SALES TO MINORS

- Stop Sales to Minors
  - Created by the Associated for Nonsmokers Minnesota (ANSR)
  - Training designed to ensure compliance with federal and state laws
  - Training Format
    - Three Sections (one hour)
      - Tobacco and Health, State and Federal Tobacco Laws
      - Compliance Checks & Penalties
      - Avoiding Illegal Sales
  - Approaches to Retailer Training



# ENFORCEMENT BEST PRACTICES



# PRE-ENACTMENT OR ADOPTION OF ORDINANCE: PLAN AND PREPARE

# **PRE-ENACTMENT OR AMENDMENT OF THE ORDINANCE: IDENTIFY RETAILERS, OUTREACH, EDUCATION, NOTICE**

- Identify all commercial tobacco retailers in the jurisdiction (city/county administrator, business licensing)
- Follow state notice requirements for new or amended ordinances
  - 30-day requirement ([Minn. Stat. § 461.19](#))
  - See: [Minnesota Commercial Tobacco Retail Licensing Ordinances: Procedural Requirements](#)
- Conduct outreach and education of retailers

# PRE-ENACTMENT OR AMENDMENT OF THE ORDINANCE: PLANNING FOR ENFORCEMENT

- Identify who will be in charge of enforcement
  - Local public health, licensing department, law enforcement, outside contractor
- Plan for enforcement protocol for all aspects of the ordinance
  - Flavor prohibition
  - Minimum legal sales age
  - Coupon/price promotion restriction
  - Minimum clerk age
- Use the license fee worksheet or calculator to quantify costs of enforcement

# MINNESOTA MODEL ORDINANCE: SET APPROPRIATE FEES

- Covers all cost of licensing
- Administration
  - Licensing applications and renewals
  - Retailer education
  - Compliance checks and inspections
  - Enforcement and penalties
    - Alternative penalties
  - Misc. costs—notices and publications

[PHLC Resource: Tobacco Retail Licensing Calculator](#)



[PHLC Resource: Retail License Fees](#)

# PHLC ONLINE FEE CALCULATOR & EXCEL WORKSHEET

Category	Description/Examples	DETAILED option (staffing)	SIMPLIFIED option (staffing)
<b>Licensing Program Applications and Renewals</b>			
<b>Staffing costs</b>	<i>Staff training, drafting and reviewing license applications, conducting background checks, issuing licenses</i>		\$
Staff training		\$ -	
Developing, updating and reviewing license applications		\$ -	
Conducting background checks		\$ -	
Developing and updating protocols and communications		\$ -	
Entering data in and maintaining database of tobacco retailers; running monthly reports		\$ -	
Monitoring license expirations		\$ -	
Verifying tobacco retailer information		\$ -	
Reviewing and signing applications		\$ -	
Preparing reports, communicating with City/County Staff		\$ -	
Maintaining financial records		\$ -	
	<b>Staffing subtotal</b>	\$ -	
<b>Equipment and supplies</b>	<i>Paper, computers, printing</i>	\$ -	\$
<b>Printing and mailing</b>	<i>USB drives, envelopes, paper, postage</i>	\$ -	\$
<b>Meeting costs</b>	<i>Non-staff costs associated with meetings specific to the application and renewal process</i>	\$ -	\$
<b>Processing payments</b>	<i>Non-staff costs associated with implementing a system to process fees (licensing and administrative)</i>	\$ -	\$
<b>Filing and recordkeeping/ database development</b>	<i>Database IT development and maintenance of database and reporting systems</i>	\$ -	\$
<b>Other costs</b>		\$ -	\$
	<b>Licensing Program Apps and Renewals</b>	\$ -	\$
<b>Mandatory Retailer Education</b>			
<b>Staffing costs</b>	<i>Costs associated with educational meetings and resource development</i>		
Developing/updating educational materials			\$ -
Scheduling and confirming educational presentations			\$ -
	<b>Staffing subtotal</b>		\$ -
<b>Resource development</b>	<i>Non-staffing related costs associated with developing FAQs and information packets for retailer education</i>		\$ -
<b>Printing and mailing</b>	<i>USB drives, envelopes, paper, postage, printing, etc. for application packets, educational resources, and physical Tobacco Retailer License to be displayed by retailers</i>		\$ -
<b>Meeting costs</b>	<i>Costs associated with mandatory meetings, including food, beverages, and any rental costs</i>		\$ -
<b>Filing and recordkeeping</b>	<i>Costs associated with tracking, filing, and recording status of retailer education</i>		\$ -
<b>Other costs</b>			\$ -
	<b>Mandatory Retailer Education</b>		\$ -
<b>Compliance Checks and Inspections</b>			
<b>Staffing costs</b>	<i>Costs associated with elements of compliance checks and inspections (employees and independent contractors)</i>		
Conducting site visits			\$ -
Developing and updating protocols and communications			\$ -
Recruiting compliance check volunteers and training decoys and/or chaperones			\$ -
Preparing data collection forms and routes, reserve vehicles			\$ -
Training and coordinating with enforcement agency			\$ -
Conducting undercover buy operations			\$ -
Entering data and maintaining records for			\$ -

# ENFORCEMENT-RELATED PROVISIONS INCLUDED IN THE ORDINANCE



# MINNESOTA MODEL COMMERCIAL TOBACCO RETAIL LICENSING ORDINANCES

## MINNESOTA COUNTY TOBACCO RETAIL LICENSING

### Model Ordinance



Through licensing and related regulations, Minnesota counties have the opportunity to address the sale of commercial\* tobacco and related devices and products in the retail environment.

This model ordinance includes all the minimum retail tobacco sales restrictions required by Minnesota state and federal law. It also includes several additional provisions a county may choose to adopt to further advance public health. A county planning to adopt this model ordinance, in whole or in part, should first review it with a county attorney to determine suitability for



### [County Model Ordinance](#)

## MINNESOTA CITY TOBACCO RETAIL LICENSING ORDINANCE



Through licensing and related regulations, Minnesota cities have the opportunity to address the sale of commercial\* tobacco and related devices and products in the retail environment.

This model ordinance includes all the minimum retail tobacco sales restrictions required by Minnesota state and federal law. It also includes several additional provisions a city may choose to adopt to further advance public health. A city planning to adopt this model ordinance, in whole or in part, should first review it with



### [City Model Ordinance](#)

# **ENFORCEMENT-RELATED COMMERCIAL TOBACCO: RETAIL LICENSING PROVISIONS**

- Licensing fee
- Require instruction
- Limit the number of licensees
- Specify which city/county department is responsible for compliance checks and inspections
- Require sales age/age verification signage and provide signage to retailers for free
- Comprehensive compliance checks and inspections provision
- Penalty provisions focus on acts of retailer
- Due process and appeals

# MINNESOTA MODEL ORDINANCE: LIMIT THE NUMBER OF LICENSEES



- Limit the number of licenses issued for retailers (capping)
- Limit proximity to other retailers
- Limit proximity to youth-oriented facilities
- Limit proximity to residential zones

[PHLC Resource: Regulating the Location, Density, and Type of Tobacco Retailers](#)

# MINNESOTA MODEL ORDINANCE: COMPLIANCE CHECKS AND INSPECTIONS

## Section 8. Compliance Checks and Inspections.

- (A) All licensed premises must be open to inspection by authorized city officials or their designees during regular business hours.
- (B) From time to time, but at least [ twice ] per year, the city will conduct compliance checks to ensure compliance with all provisions of this ordinance.
- (C) In accordance with state law, the city will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

# **MINNESOTA MODEL ORDINANCE: RETAILER RESPONSIBILITY**

## Section 7. Responsibility.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee.

# MINNESOTA MODEL ORDINANCE: PENALTIES & TRAINING

- **Licenseses:**
- 1<sup>st</sup> violation – \$300
- 2<sup>nd</sup> violation within **36 months** of 1<sup>st</sup> – \$600
- 3<sup>rd</sup> or subsequent violations **within 36 months** of 1<sup>st</sup> – \$1,000
  - Suspension of license for **30** days
  - **Revocation of license upon a 4<sup>th</sup> violation**
- **Clerks and other individuals for underage sales/furnishing:**
  - **MAY** be fined up to \$50 **or required to attend an instructional program**

# ENFORCEMENT BEST PRACTICES: AVOIDING PURCHASE, USE, POSSESSION PENALTIES

- Can result in discriminatory enforcement
- Fines can be more difficult to afford
- Citations can lead to other consequences



# POST-ENACTMENT AND ONGOING SUPPORT FOR RETAILERS



# POST-ENACTMENT AND ONGOING SUPPORT: RETAILER EDUCATION

- Proactive outreach for retailer education—make resources easy to find and offer assistance
- Send letter outlining any new provisions and plain language description of all requirements of the ordinance with a copy of the ordinance
- Specify implementation date

[Benton County Implementation Guide DRAFT \(ansrmn.org\)](https://www.ansrmn.org/Benton-County-Implementation-Guide-DRAFT)

## Compliance guide for Benton County's amended tobacco chapter 475

*Information regarding amended chapter 475, to include but not limited to: restriction on the sales of flavored tobacco products, and changes in penalties for violations*

As of January 1, 2023 the following change to Benton County's tobacco ordinance will take effect:

- The sale of flavored tobacco products (including menthol) is only allowed at Tobacco Products Shops (700.03-A)
- Penalties for violations of the tobacco ordinance are increased (1200.01)

Details and examples of these changes are listed below:

### Types of Licenses and Restrictions on Flavored Tobacco Sales

There are two classes of licenses to sell tobacco. A "Tobacco Shop" license and a "Retail Establishment" license. A Retail Establishment license may not sell flavored tobacco or flavored vaping products.

**RETAIL ESTABLISHMENT**  
(Includes convenience stores,  
grocers, and liquor stores)

Less than 90% of sales are of tobacco products

 **ALLOWED**



Non-flavored tobacco and vaping products

 **NOT ALLOWED**

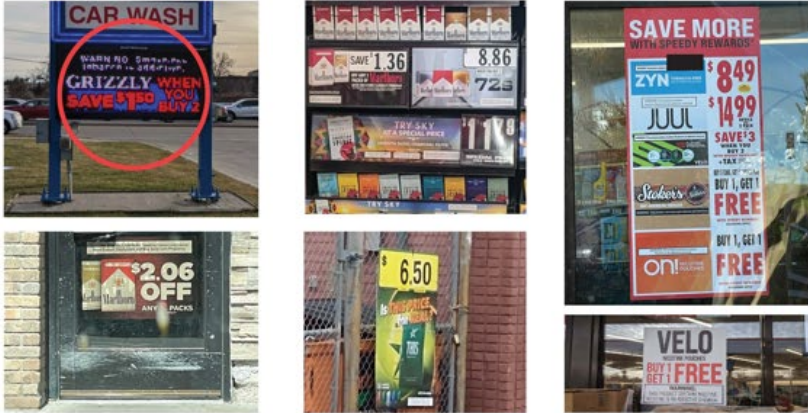


Flavored tobacco and vaping products,  
including menthol

## Price Promotions Not Allowed

The use of price promotions (e.g. \$1 off or buy 2 get 1 free) for all tobacco and vaping products is not allowed. This does not prohibit communication of pricing information.

### NOT ALLOWED



## Coupons Not Allowed

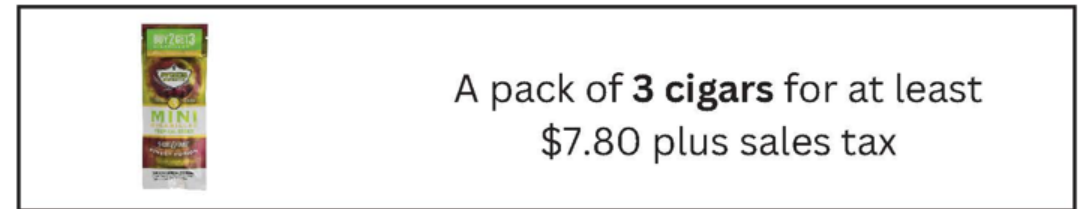
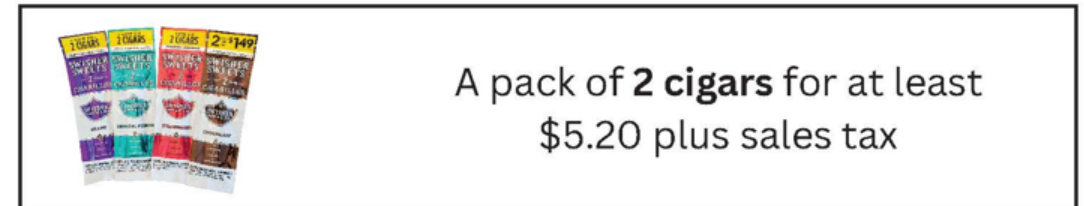
The use of coupons for all tobacco and vaping products is not allowed.

### NOT ALLOWED



## Minimum Price of Cigars

The sales of packs of cigars in less than seven is prohibited unless the price of each cigar is at least \$2.60. A pack of six or more cigars must be sold for at least \$15.60. If you sell cigars in Benton County, cigars must be sold at the following prices:



- A pack of 4 cigars for at least \$10.40 plus sales tax
- A pack of 5 cigars for at least \$13.00 plus sales tax
- A pack of 6 or more cigars for at least \$15.60 plus sales tax

## Penalties

The penalty matrix reflects current Benton County ordinance language (1200.01).

- **First Violation:** \$500 penalty
- **Second violation within 36 months:** \$1,000 penalty
- **Third Violation within 36 months:** \$1500 penalty and suspension for not less than 30 consecutive days and may be revoked
- **Fourth Violation:** License revocation

# POST-ENACTMENT AND ONGOING SUPPORT: RETAILER EDUCATION

- Host a webinar explaining the requirements and post as a recording online
- Web-based resources:
  - Consider an easy to find “landing page” for commercial tobacco retailer information
  - Post easy to read resources online:
    - Link to the ordinance
    - Overview of licensing requirements in easy-to-read format
    - Contact information for any follow up questions

# POST-ENACTMENT AND ONGOING SUPPORT LICENSE APPLICATION/RENEWAL PROCESS

- Comprehensive license application and renewal with no transfers allowed
- Require a signed attestation form—retailer attests they will comply with all licensing requirements
- Require proof of retailer and clerk education program



# **POST-ENACTMENT AND ONGOING SUPPORT: COMPLIANCE CHECKS AND INSPECTIONS**

## **Testing compliance with minimum legal sales age of 21 best practices**

- Know the community and tailor the compliance check accordingly:
  - What are the demographics of the customers for this store?
  - What are the products most frequently purchased? (Tip: ask schools what products they are most frequently confiscating)
  - What time of day would underage people most likely be shopping?
- Follow protocol for training underage shoppers used in the compliance checks
- Checks are unannounced.
- Checks are staggered in time for different stores to avoid retailers tipping off other retailers

# POST-ENACTMENT AND ONGOING SUPPORT: COMPLIANCE CHECKS AND INSPECTIONS

## Inspections for provisions other than underage sales

- Inspector training – all components
- Inspection check list
- Unannounced checks
- Staggered checks



# **POST-ENACTMENT AND ONGOING SUPPORT** **DUE PROCESS AND ONGOING RELATIONSHIPS**



DUE PROCESS AND APPEALS  
PROCESS FOR VIOLATIONS



ONGOING EDUCATION AND  
RELATIONSHIP BUILDING

# ENFORCEMENT BEST PRACTICES: IN ACTION



**SAINT PAUL**  
**MINNESOTA**

[stpaul.gov](http://stpaul.gov)



<https://www.co.benton.mn.us/>

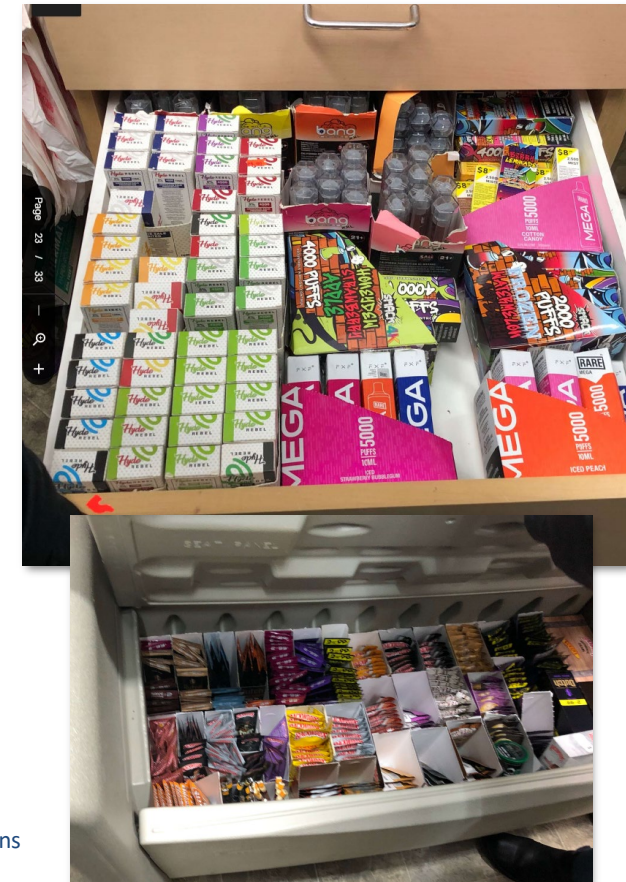


# BEST PRACTICES: SAINT PAUL, MN

- Feb/March – Mailed Notifications and Educational materials
- March/April – Education Visits with Implementation guide
- Summer/Fall – Youth compliance checks
  - Dept. of Safety and Inspections (DSI) will conduct a round of youth compliance checks of all vendors by the end of August
  - If the vendor fails, DSI will conduct a second youth compliance check in the fall.
- September – Reminder Mailing
  - DSI will conduct a second informational mailing to all vendors.
  - ANSR will send a second cigar pricing postcard to all vendors.
- Fall – Non-youth inspections
  - DSI will conduct another inspection of all vendors to check on cigar pricing, flavored tobacco product availability, e-cigarette packaging, and other non-youth-related restrictions. At this point, if the vendor is not in compliance, fines will be issued.
- Ongoing – Respond to complaints
  - DSI will follow-up with stores on any complaints issued to the City.

## Ordinance provisions:

- Sign code
- Coupons
- Flavors
- Minimum Price
- Sales to minors
- Tobacco shop age requirements



# Removing menthol off the shelves from liquor stores:

## REMINDER ALL MENTHOL, MINT & WINTERGREEN TOBACCO

MAY NO LONGER BE  
SOLD IN SAINT PAUL  
LIQUOR STORES AS OF  
DECEMBER 11, 2021.

Ordinance 324

 **NOT ALLOWED**



**PLEASE REMOVE ALL MENTHOL, MINT, & WINTERGREEN, TOBACCO AND VAPE PRODUCTS FROM YOUR SHELVES NO LATER THAN DECEMBER 11, 2021.**


The City of Saint Paul amended Chapter 324 to no longer allow the sale of menthol, mint, and wintergreen tobacco (including vape products) in liquor stores. This includes all menthol, mint, and wintergreen cigarettes, chew, cigars/wraps, vaping products, and tobacco-related products. Please ensure all such products are to be removed from your shelves no later than December 11, 2021.

**Questions?** Contact the Department of Safety and Inspections (DSI) at 651-266-8989.

Association for Nonsmokers-MN  
2395 University Ave W #310  
St. Paul, MN 55114  
T: 651-646-3005 | [info@ansrmn.org](mailto:info@ansrmn.org)



# Letters to retailers with free signage and copy of ordinance:

 **City of Saint Paul**

City Hall and Court House  
15 West Kellogg Boulevard  
Phone: 651-266-8560

**Signature Copy**  
**Ordinance: Ord 21-29**

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**File Number: Ord 21-29**

Amending Chapter 324 of the Legislative Code in order to create separate licenses for Tobacco Products Shops and Tobacco Shops, to restrict pricing discounts or coupons, and to create a distance requirement between establishments licensed to sell tobacco.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

SECTION 1

WHEREAS, the Saint Paul Zoning Code has a separate use identified as a "Tobacco Products Shop", St. Paul Leg. Code § 65.535; and

WHEREAS, Saint Paul Legislative Code, Chapter 324 regulates tobacco licenses in general, but does not distinguish between or define a Tobacco Products Shop and a Tobacco Shop; and

WHEREAS, the Council wishes to distinguish between a retail store that is accessible to minors and can sell limited products (Tobacco Shop) and a retail store that can only be entered by persons who are age 21 or over that can sell additional types of products (Tobacco Products Shop); and

WHEREAS, a clearer definition will allow the City to more easily enforce existing regulations; and

WHEREAS, Minnesota Statute § 609.685 regulates the sale of tobacco to persons under 21 imposing administrative, petty misdemeanor, and misdemeanor penalties and it is not necessary for a separate ordinance penalty; and

WHEREAS, price is the single most important factor in reducing smoking; and

WHEREAS, tobacco is a leading cause of premature, preventable death in Minnesota and high prices are the single most effective way of preventing youth from starting to smoke and encouraging adults to quit; and

WHEREAS, cigarettes, e-cigarettes, cigars and smokeless tobacco, contain nicotine, which is highly addictive; and

WHEREAS, Minnesota's progress in reducing smoking among youth and adults is undermined by price discounts and price promotions and in 2018 the rate of tobacco used among youth increased for the first time in 17 years; and

WHEREAS, tobacco companies spent \$9.1 billion in 2018 to lower the price of tobacco products by using strategies like coupons and retail promotions; and they send coupons in birthday cards, pass them out at events and bars, promote them inside stores, and send emails and text alerts through

City of Saint Paul Page 1 Printed on 11/21

**WE DO NOT ACCEPT  
COUPONS OR DISCOUNTS  
FOR ANY TOBACCO OR VAPE PRODUCTS**



Ordinance 324 prohibits price discounts and the redemption of coupons for any tobacco or vape products in the City of Saint Paul

Dec 16, 2021

Retailer Name  
Address  
City, MN, ZIP

Dear Cigarette/Tobacco Licensee:

The Saint Paul City Council amended Chapter 324 of the tobacco licensing ordinance effective December 11, 2021.

One major change is:

1. Prohibiting the accepting and redemption of coupons, price promotions, multi-pack discounts, such as "buy-one-get one" or other price-reducing mechanisms.

Enclosed you will find signage to help you communicate this new law to your valued customers. If you wish to receive additional free signage, orders can be placed by emailing: [signorders@ansrmn.org](mailto:signorders@ansrmn.org)

If you have additional questions about the ordinance, contact the City of St. Paul Department of Safety and Inspections, Joseph Voyda at 651-266-9014.

Thank you,

Association for Nonsmokers- MN

# Implementation Guide:



December 2021

## Compliance guide for amended City of Saint Paul tobacco chapter 324

Information regarding amended chapter 324, to include but not limited to: coupons/promotions, minimum price (cigarettes/moist snuff) and flavored products.

As of December 11, 2021 the following changes to St. Paul's tobacco ordinance took effect:

- The use of coupons and price promotions for all tobacco and vaping products is prohibited (324.07-I)
- The minimum price for a pack of cigarettes, a standard size tin of moist snuff or smokeless tobacco is \$10 (324.07-F, 324.07-G)
- The sale of flavored tobacco products (including menthol) is only allowed at Tobacco Products Shops (324.07-K)
- Penalties for violations of the tobacco ordinance are increased (324.10)

Details and examples of each of these changes are listed below.

### Coupons Not Allowed

The use of coupons for all tobacco and vaping products is not allowed.

#### NOT ALLOWED



### Price Promotions Not Allowed

The use of price promotions (e.g. \$1 off or buy 2 get 1 free) for all tobacco and vaping products is not allowed. This does not prohibit communication of pricing information.

#### NOT ALLOWED



### \$10 Minimum Price for Cigarettes and Moist Snuff

The minimum price for cigarette packs or cartons is \$10 per pack. The minimum price for a standard size can (1.2 oz) of moist snuff or smokeless tobacco is \$10 and \$2.50 for each additional .3 oz.

#### NOT ALLOWED



#### ALLOWED



### Penalties

The penalty matrix reflects both Saint Paul City ordinance and Minnesota state law. The city ordinance sets the amount of the fine while the state law establishes a 36-month violation window.

- **First violation:** \$500 penalty
- **Second violation within 36 months of the first violation (state law):** \$1,000 penalty
- **Third and subsequent violations:** \$2,000 and 7-day suspension of license
- **Fourth violation:** revocation of license

3

The penalties for other types of violations such as improper display, possession, or multiple incidents of sales of single cigarettes, menthol, or other flavored products are as follows:

- **First violation:** 10-day suspension
- **Second violation within 24 months:** revocation of license

### More Information

#### About

The total number of Tobacco Shop or Tobacco Products Shop licenses issued by the City will be limited to 150 and 25 respectively. Establishments holding a license on July 31, 2021, or with a pending application on July 31, 2021, are still eligible to have their license renewed or granted.\* No new tobacco license will be issued to an establishment within 1/2 mile of another establishment holding a tobacco license. (324.06-B)

\*See final adopted ordinance language for more information.

The final adopted ordinance language is attached to this guide.

### Additional Tobacco Ordinance Provisions

1. Sales of any tobacco or tobacco related devices to anyone under the age of 21 years old are not allowed.
2. Tobacco Products Shops are required to prohibit entry to people under 21 years of age.
3. Cigarettes may not be sold in packages fewer than 20.
4. The minimum price of a cigar is \$2.00.
5. Tobacco or tobacco related devices may not be sold from a vehicle or other movable place of business.
6. The Saint Paul window sign ordinance requires new temporary window signs (including tobacco signs) placed within 4 feet of a window and visible to the outside cannot cover more than 30% of the window space between 4 feet and 7 feet above grade and shall not block views into the cashier area.

### Contact

# ENFORCEMENT BEST PRACTICES: BENTON COUNTY, MN

- Letter to retailers
  - Copy of Ordinance
  - Outline Ordinance amendments
  - Include information on compliance
- License Application/Renewal
  - Checklist of key provisions
  - Stop Sales to Minors Training Requirement
    - All Retailers and all of their Employees MUST complete the training before being granted license.
  - Affirmation of compliance with ordinance



October 9, 2023

RE: Renewal of Tobacco License January 1, 2024 to December 31, 2024

The Benton County Tobacco Ordinance #486 requires you to complete a renewal application for the sale of Tobacco, Tobacco Products and Tobacco Related Devices.

**Deadline for submitting Tobacco License Renewal is November 21<sup>st</sup> 2023!**

#### REQUIRED DOCUMENTS:

- Completed Tobacco application
- Tobacco License fee of \$125.00
- A copy of applicants driver's license or picture ID card
- Updated store employee training roster (Stop Sales to Minors)  
Please visit <https://www.co.benton.mn.us/357/Tobacco> for form and more information.

If the required documents are not submitted or incomplete, the County Auditor-Treasurer office will return application with notice of information necessary to make the application complete. An application shall not be forwarded to the County Board until complete.

**Christine Scherbing**  
*Auditor-Treasurer*

*Mailing Address:*

531 Dewey Street (320) 968-5006  
PO Box 129 (320) 968-5337 FAX  
Foley, MN 56329  
[treasurer@co.benton.mn.us](mailto:treasurer@co.benton.mn.us)

# **ENFORCEMENT BEST PRACTICES:** **BENTON COUNTY, MN**

I will comply with the provisions of the ordinance relating to the sale of tobacco or tobacco products.

I agree that the licensed premises shall be open to inspection by an authorized county official during all regular business hours.

I solemnly swear that the foregoing statements are true and correct to the best of my knowledge.

I agree to comply with the provisions of the ordinance under which this license is granted.

Applicant(s) Signature \_\_\_\_\_

Date \_\_\_\_\_

# QUESTIONS & DISCUSSION



# ENFORCEMENT RESOURCES:

## PHLC Minnesota Point of Sale Toolkit

[Compliance and Local Enforcement Programs](#)

PHLC/ANSR-MN Enforcement Best Practices and Inspections Checklist



Coming  
Soon!

## PHLC Tobacco Retail Licensing New Enforcement Guide for New York State

[Enforcement Guide](#)

## ANSR-Minnesota Compliance Check Factsheet

[Understanding Youth Commercial Tobacco Compliance Checks](#)

## New York City Inspections Checklist

[New York City Checklist](#)



# RESOURCES:

## Minnesota Tobacco Point-Of-Sale Policy Toolkit

- [Coupons and Other Price Discounting Policy Options](#)
- [Youth Purchase, Use, or Possession Penalties \(PUP\)](#)
- [Regulating the Location, Density and Type of Tobacco Retailers](#)
- [Commercial Retail Tobacco Licensing Ordinances: Procedural Requirements](#)
- [Setting a Minimum Price and Package Size for Cigars](#)
- [Compliance and Local Enforcement Programs](#)
- [Establishing a Minimum Clerk Age](#)
- [Retail License Fees](#)
- [Violations and Penalties](#)
- [Policy Options to Address Commercial Tobacco Product Samples and Sampling](#)
- [Online and Other Delivery Sales of Commercial Tobacco Products](#)

# RESOURCES:

## MINNESOTA COUNTY TOBACCO RETAIL LICENSING

### Model Ordinance

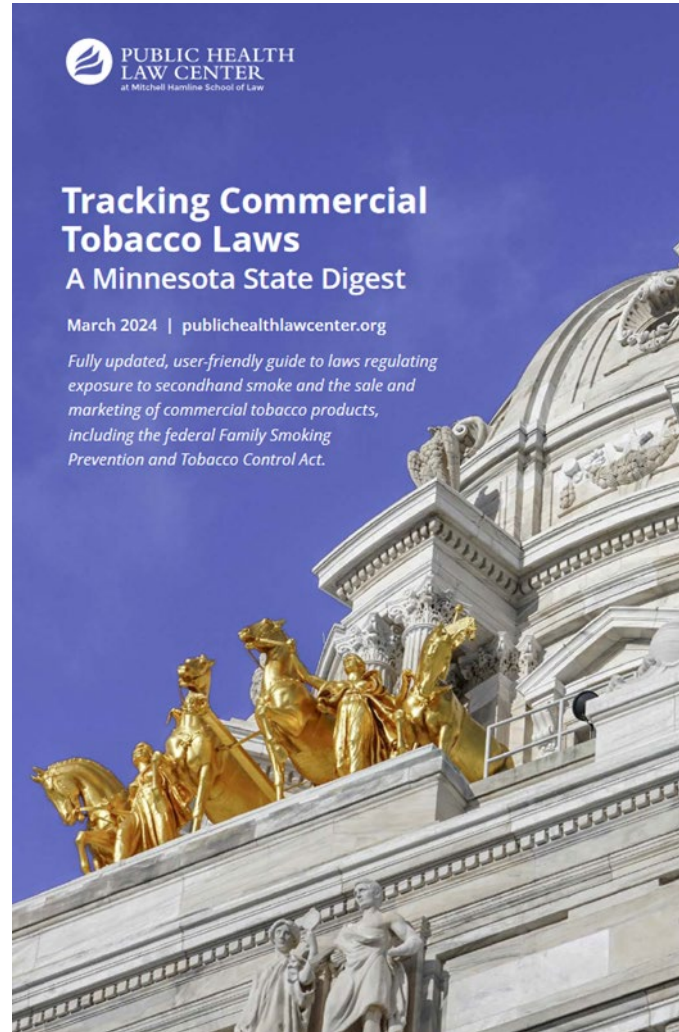


Through licensing and related regulations, Minnesota counties have the opportunity to address the sale of commercial\* tobacco and related devices and products in the retail environment.

This model ordinance includes all the minimum retail tobacco sales restrictions required by Minnesota state and federal law. It also includes several additional provisions a county may choose to adopt to further advance public health. A county planning to adopt this model ordinance, in whole or in part, should first review it with a county attorney to determine suitability for



### [County Model Ordinance](#)



## Tracking Commercial Tobacco Laws A Minnesota State Digest

March 2024 | [publichealthlawcenter.org](http://publichealthlawcenter.org)

*Fully updated, user-friendly guide to laws regulating exposure to secondhand smoke and the sale and marketing of commercial tobacco products, including the federal Family Smoking Prevention and Tobacco Control Act.*

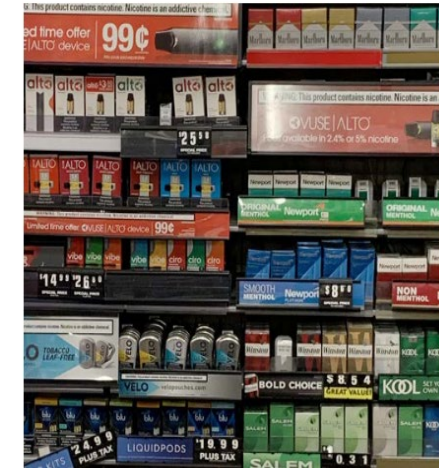
### [Tracking Commercial Tobacco Laws: A Minnesota Digest](#)

## MINNESOTA CITY TOBACCO RETAIL LICENSING ORDINANCE



Through licensing and related regulations, Minnesota cities have the opportunity to address the sale of commercial\* tobacco and related devices and products in the retail environment.

This model ordinance includes all the minimum retail tobacco sales restrictions required by Minnesota state and federal law. It also includes several additional provisions a city may choose to adopt to further advance public health. A city planning to adopt this model ordinance



### [City Model Ordinance](#)

# CONTACT US



651.290.7506



[publichealthlawcenter@mitchellhamline.edu](mailto:publichealthlawcenter@mitchellhamline.edu)



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our newsletter!*