

Ordinance No 480

An Ordinance amending Ordinance No 381, Sec. 50-4 Sale of Tobacco Products.

Be it ordained by the City Council of the City of Ada, Minnesota, amended to read as follows:

(a) LICENSE.

1. 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, snuf, snuf flour, cavendish, plug and twist tobacco, one 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.
2. The annual license fee for retail tobacco license shall be \$12.00 per year. All retail tobacco licenses shall be valid for one calendar year from the date that the license is issued.
3. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

(b) SALES PROHIBITED TO MINORS

1. No person shall sell or offer to sell any tobacco or tobacco product to any person under 21 years of age.

(c) ADMINISTRATIVE PENALTIES

1. If a licensee or employee of a licensee sells tobacco to a person under the age of 21 years, or violates any other provision of this section, the licensee shall be charged with 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, an 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.
2. An individual who sells tobacco to a person under the ages of 21 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.
3. It is an affirmative defense to the charge of selling tobacco to a person under the age of 21 years in violation of this section that the licensee or individual making the sale relied in good faith upon proof of age as follows:

- a. A valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; or
- b. A valid military identification card issued by the United States Department of Defense; or
- c. In the case of a foreign national, from a nation other than Canada, by a valid passport.

(d) SELF – SERVICE SALES.

1. 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.
2. Cartons and other multi-pack units may be ordered and sold through open displays accessible to the public.
3. Subsection (d)(2) of this section will expire upon the effective date and implementation of Code of Federal Regulations, Title 21, Part 897.16(c).
4. The self-service restrictions described in this subsection (d) shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 21 years of age.

(e) VENDING MACHINE SALES

1. 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 21 years of age.

(f) COMPLIANCE CHECKS.

1. The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with M.S.A. § 609.685. Compliance checks shall utilize minors over the age of 15, but under the age of 21, 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.

(g) APPLICATION

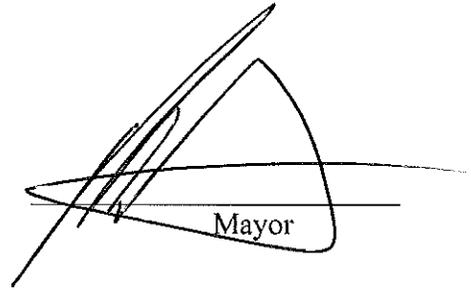
1. This section shall apply to all persons who keep for sale, sell or retain or otherwise dispose of any tobacco product at any place within the corporate limits of the city.

EFFECTIVE DATE AND ACCEPTANCE

This Ordinance shall become effective and be a binding contract between the Licensor and Licensee, upon its final passage and approval by Licensor, in accordance with applicable laws and regulations, and upon acceptance by Licensee by written instrument within sixty (60) days of passage by the governing body, and filed with the City Clerk of the City of Ada, Minnesota. The

City Clerk shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Licensee its objections to any terms or provisions contained therein, or reject this ordinance in its entirety, Licencee shall be deemed to have accepted this ordinance and all of its terms and conditions.

Passed and approved by the City Council of the City of Ada, Minnesota, on this 10th day of March, 2020.



Mayor

ATTEST:



City Clerk