

APPLICATION FOR RETAIL TOBACCO SALES ESTABLISHMENT LICENSE



100 Civic Center Parkway * Burnsville, Minnesota 55337-3817

Phone: 952-895-4460 FAX: 952-895-4512 www.burnsville.org/licensing

THE MINNESOTA DATA PRACTICES ACT requires that we inform you of your rights about the private data we are requesting on this form. Private data is available to you, but not to the public. We are requesting this data to determine your eligibility for a license from the City of Burnsville. Providing the data may disclose information that could cause your application to be denied. You are not legally required to provide the data; however, refusing to supply the data may cause your license to not be processed. This data can be shared by Burnsville City Staff, Department of Public Safety, Dakota County Auditor, Bureau of Criminal Apprehension, and other persons or entities deemed necessary for verification of information submitted in the application. Your signature on this application indicates you understand these rights.

Signature X _____ (REQUIRED)

Name of Owner/Corporation: _____ (Circle Type - Corporation, Partnership, Sole Proprietorship)

Corporate Mailing Address: _____

Corporate Phone: _____ Fax: _____ Email: _____

If applicant is a corporation, answer the following: State in which incorporated: _____. If incorporated under the laws of a state other than Minnesota, is corporation authorized to do business in Minnesota? _____ Number of certificate of authority: _____ Is this corporation a subsidiary of any other corporation? _____. If YES, state the name and address of Parent Corporation: _____

The person executing application (and all individuals with interest) answers the following: (Attach additional sheets if needed) Name (first-middle-last): _____

Residence Address: _____

Phone No.: _____ Cell Phone No. _____ Email Address: _____

State the name of the business (d.b.a.) _____

Address of premises to be licensed: _____

Establishment Phone: _____ Fax: _____ Email: _____

Store Manager Name: _____ Phone: _____ Email: _____

Anticipated Date of Opening: _____ Educational materials of programs used to educate employees in the sale of tobacco: _____

If Tobacco Product Shop: Sq. ft. of retail: _____ Total sq. ft.: _____ (A detailed to scale site plan must accompany application)

Annual License Fees: Best Practices Participant \$365.00 Non Best Practices Participant \$735.00

*Best Practices forms need to be completed for all applicants

FALSIFICATION OF ANSWERS GIVEN OR MATEIRAL SUBMITTED WILL RESULT IN DENIAL OF APPLICATION

Incomplete applications will not be accepted. The information contained in this application becomes a public record upon approval and is therefore accessible to the public. All licenses issued shall be valid only on the premises for which the license is issued. No transfer of any license to another location or person shall be valid without the prior approval of this Office. All licenses will be issued for a one-year period (July 1 to June 30) and shall be posted and displayed in plain view of the general public on the premise.

I hereby state that I have answered all of the preceding questions and that the information contained herein is true and correct to the best of my knowledge and belief and that I am the owner of record or agent for this business and authorized to sign this application. I hereby state further that I have received no money or other consideration, by way of loan, gift, contribution, or otherwise, other than already disclosed in the application which I herewith submitted. I also understand this premise may be inspected by police, fire, health and other city officials at any and all times when the business is in operation.

Signature of Applicant (Required)

Title

Date

TAX IDENTIFICATION FORM

LICENSE APPLICANT:

Pursuant to *Minnesota Statute 270C.72 Tax Clearance: Issuance of Licenses, the licensing authority is required to provide to the Minnesota Commissioner of Revenue your Minnesota business tax identification number and the Social Security number of each license applicant.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, we are required to advise you of the following regarding the use of this information:

1. This information may be used to deny the issuance, renewal or transfer of your license in the event you owe the Minnesota Department of Revenue delinquent taxes, penalties or interest:
2. Upon receiving this information, the licensing authority will supply it only to the Minnesota Department of Revenue. However, under the Federal Exchange of Information Agreement the Department of Revenue may supply this information to the Internal Revenue Service:
3. Failure to supply this information may jeopardize or delay the processing of your licensing issuance or renewal application.

Please supply the following information and return along with your application to the agency issuing the license. DO NOT RETURN TO THE DEPARTMENT OF REVENUE.

Name of Applicant _____

Social Security #* _____
For individual business owner only, not partnership, corporation, etc.

Type of Business _____

Minnesota Tax Identification # _____

Federal Tax Identification # _____

Signed by _____ Date _____

Print Name of Person Signing: _____

If a Minnesota Tax Identification Number is not required, please explain below.

*2008 Minnesota Statutes

270C.72 TAX CLEARANCE; ISSUANCE OF LICENSES.

Subd. 4. Licensing authority; duties.

All licensing authorities must require the applicant to provide the applicant's Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner, the licensing authority must provide the commissioner with a list of all applicants, including the name, address, business name and address, Social Security number, and business identification number of each applicant. The commissioner may request from a licensing authority a list of the applicants no more than once each calendar year.

History: 2005 c 151 art 1 s 87

Certificate of Compliance Minnesota Workers' Compensation Law

PRINT IN INK or TYPE.

Minnesota Statutes, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in any activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Chapter 176. The required workers' compensation insurance information is the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure. If the required information is not provided or is falsely stated, it shall result in a \$2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry.

A valid workers' compensation policy must be kept in effect at all times by employers as required by law.

BUSINESS NAME (Individual name only if no company name used)	LICENSE OR PERMIT NO (if applicable)
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DBA (doing business as name) (if applicable)

BUSINESS ADDRESS (PO Box must include street address)	CITY	STATE	ZIP CODE
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YOUR LICENSE OR CERTIFICATE WILL NOT BE ISSUED WITHOUT THE FOLLOWING INFORMATION. You must complete number 1, 2 or 3 below.

NUMBER 1 COMPLETE THIS PORTION IF YOU ARE INSURED:

INSURANCE COMPANY NAME (not the insurance agent)

WORKERS' COMPENSATION INSURANCE POLICY NO.	EFFECTIVE DATE	EXPIRATION DATE
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NUMBER 2 COMPLETE THIS PORTION IF SELF-INSURED:

I have attached a copy of the permit to self-insure.

NUMBER 3 COMPLETE THIS PORTION IF EXEMPT:

I am not required to have workers' compensation insurance coverage because:

- I have no employees.
- I have employees but they are not covered by the workers' compensation law. (See Minn. Stat. § 176.041 for a list of excluded employees.) Explain why your employees are not covered: _____
- Other: _____

ALL APPLICANTS COMPLETE THIS PORTION:

I certify that the information provided on this form is accurate and complete. If I am signing on behalf of a business, I certify that I am authorized to sign on behalf of the business.

APPLICANT SIGNATURE (mandatory)	TITLE	DATE
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NOTE: If your Workers' Compensation policy is cancelled within the license or permit period, you must notify the agency who issued the license or permit by resubmitting this form.
This material can be made available in different forms, such as large print, Braille or on a tape. To request, call 1-800-342-5354 (DIAL-DLI) Voice or TDD (651) 297-4198.



Best Practices Program

City of Burnsville, Minnesota
Tobacco Compliance Program



CITY OF BURNSVILLE



Purpose

The Best Practices Program is a joint effort by the City, health professionals, school officials, businesses, and tobacco vendors to eliminate illegal sales of tobacco to youth. It is a voluntary program offered to tobacco license holders in the city. The program offers incentives to the licensees to undertake certain practices believed to be helpful in avoiding sales to minors.

Benefits of Participation

Any vendor participating in the Best Practices Program will receive two benefits. The first is the availability of regularly scheduled, city-provided training at no cost. The training will not be offered to vendors who do not participate.

The second benefit is a reduction in penalties if a violation occurs. Participating vendors will be given the advantage of a different set of penalties. The following grid show the differences in penalties.

Violation	Best Practices Business	Non-Best Practice Business
1st Violation	\$150 fine	\$500 fine 3 day suspension of license
2nd Violation	\$400 fine	\$750 fine 5 day suspension of license
3rd Violation	\$750 fine 3 day suspension of license Best Practice Review Panel	\$1000 fine 10 day suspension of license
4th Violation	\$1000 fine 5 day suspension of license Administrative hearing	Possible revocation of license
5th Violation	Possible revocation of license	Possible revocation of license

Participation

The licensee will be given the opportunity to participate in the program at the time a license is issued and then annually at the time of license renewal. The licensee will indicate in writing their intent to participate. The first four items in the grid are mandatory. The licensee must choose items from the list of elective to equal a total of 100 points. The City will conduct spot checks of participant to determine compliance.



City of Burnsville

Best Practices Program Application



We choose to NOT participate in the Best Practices Program. _____
 Signature of applicant

Name of Business: _____

Business Address: _____

Manager's Name: _____ Business Phone _____

Tobacco License _____ **Alcohol License** _____

This business, operating in the City of Burnsville with the above mentioned license (s), agrees to be a Best Practices establishment. We understand we must complete the selected items below equaling at least 60 points. The first four items are mandatory. The City will conduct spot checks regarding our participation to determine compliance.

#	Selected	Points	Items
1.	X	Required	Permit inspections of records to ensure criteria is being met.
2.	X	Required	Minimum of 75% of all selling employees trained by Burnsville Police Department.
3.	X	Required	Internal program in place for on-going training of new and current selling employees.
4.	X	Required	Policy requiring identification checks for anyone appearing to be 40 or under.
			Electives
5.		20	Participation on TIPS, SALES or similar (city approved) training program-75% of selling employees certified.
6.		10	Internal employee reward and recognition program (program to reward any employee who catches any underage customer attempting to purchase).
7.		10	Approved internal compliance check program.
8.		10	Automated identification card scanner system (can not do both eight and nine).
9.		20	Automated identification card scanner system integrated into register system (can not do both eight and nine).
10.		10	Pre-arrangement to meet immediately on violations (meet with Police Dept and City Staff immediately instead of waiting for criminal court proceedings).
11.		10	Policy requiring identification checks for every transaction regardless of apparent age.
12.		10	Pre-arrangement to work with Police on preventing secondary sales (sales outside store to underage youth).
13.		10	Minimum age of 21 for employees selling products.

Total Points Selected _____ (must equal 60 or more)

Manager's Signature _____ Date _____

Application Approved _____
 Date _____



License Application to Make Retail Sales of Cigarette and Other Tobacco Products

To be completed by applicant when applying for a license with a city or county.

Print or type	Applicant's Minnesota tax ID number		<input type="checkbox"/> The Minnesota tax ID must be issued in the same legal name of the licensee below.		<i>FOR MUNICIPAL USE ONLY</i>	
					License number	
					Period covered	
					Date of issuance	
	Cigarettes/tobacco products will be sold (a separate license is required for each location or vending machine): <input type="checkbox"/> Over counter <input type="checkbox"/> Through vending machine <input type="checkbox"/> Both					
	Licensee's legal name				Federal employer ID number (FEIN)	
	Business trade name (doing business as)				Daytime phone	
	Complete address of business location (permit location)		County		Other phone number	
City	State	Zip code		Fax number		
Mailing address (if different than business address)		City	State	Zip code	Email address	

Business information	Type of legal organization (check one):					
	<input type="checkbox"/> Sole proprietor	<input type="checkbox"/> Minnesota corporation: Enter date of incorporation _____				
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Out-of-state corporation: State of incorporation _____				
	<input type="checkbox"/> Other (describe) _____	Are you registered to do business in Minnesota? <input type="checkbox"/> Yes <input type="checkbox"/> No				
	Corporate officers or partners (attach a list if necessary)					
	Name		Title			
Address		City	State	Zip code		
Name		Title				
Address		City	State	Zip code		

Statement of understanding	As a licensed tobacco products or cigarette retailer, I understand that:				
	1. I can purchase cigarettes only from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue.				
	2. I must obtain a tobacco products distributor license if I purchase untaxed tobacco products from an out-of-state company.				
	3. I may not sell cigarettes affixed with Minnesota Native American stamps unless my retail business is located on a reservation that has a tax agreement with the State of Minnesota.				
	4. I may not purchase from or exchange cigarettes or tobacco products with another retailer.				
	5. I must keep complete and legible cigarette and tobacco products invoices on the licensed premises, or make invoices available within one hour of request, for at least one year after the date of the purchase.				
	6. I know that the Minnesota Department of Revenue and/or law enforcement may conduct cigarette and tobacco inspections of the premises, including inspections of inventory, invoices and licenses, and I understand that a refusal to allow an inspection is grounds for revocation of my license.				
	7. I know that failure to comply with all requirements can result in criminal penalties, including the loss of cigarettes and tobacco products.				

Sign here	Licensee signature	Title	Print name	Date	Daytime phone
	Licensing agent's signature	Title	Print name	Date	Daytime phone

License applicant: Submit this form to the licensing authority along with the license application.

Licensing authority: Mail or fax a copy of approved form to:
Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331. Fax: 651-297-1939
Phone: 651-297-1882. TTY: Call 711 for Minnesota Relay.

Chapter 23

TOBACCO PRODUCTS AND TOBACCO RELATED DEVICES

3-23-1: PURPOSE:

The city council finds that current state and federal laws prohibiting sales of tobacco related products to persons under the age of eighteen (18) and limiting the use of tobacco related products has proven ineffective in preventing or limiting the availability and use of tobacco related products. (Ord. 1311, 12-17-2013)

3-23-2: DEFINITIONS:

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

ADULT: A person eighteen (18) years of age or older.

APPLICANT: Refers to a "person" as defined herein, who completes or signs an application for a license to sell tobacco related products individually or on behalf of a business.

BUSINESS: Refers to the business of selling tobacco related products.

LICENSE HOLDER: Refers to the owner of the business licensed to sell tobacco related products.

MOVABLE PLACE OF BUSINESS: A business whose physical location is not permanent or is capable of being moved or changed.

PERSON: One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

SELF-SERVICE MERCHANDISING: A method of displaying tobacco related products so that they are accessible to the public without the intervention of an applicant, license holder or their agents or employees.

SMOKING DEVICE: A pipe, hookah, bowl, or other apparatus in which tobacco related product is burned for the purposes of smoking or inhalation.

TOBACCO PRODUCTS SHOP: A retail establishment with an entrance door opening directly to the outside that derives more than ninety percent (90%) of its gross revenue from sale of tobacco related products 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 food, liquor, or restaurant license.

TOBACCO RELATED PRODUCT: 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 scripts, clippings, cuttings, and sweepings of tobacco; and any other product containing kinds and forms of tobacco including lobelia, prepared in such manner as to be suitable for chewing, sniffing, smoking in a pipe; rolling paper or other tobacco related devices. This definition excludes a product that has been approved or otherwise certified for legal sale by the United States food and drug administration for tobacco use cessations, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

VENDING MACHINE: Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products and including vending machines equipped with manual, electric or electronic locking devices. (Ord. 1311, 12-17-2013)

3-23-3: LICENSE REQUIRED:

No person shall keep for retail sale, sell at retail or otherwise dispense any tobacco related product at any place in the city without first obtaining a license and paying a license fee. The issuance of a license 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.

(A) **Application:** An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall include, but is not limited to, requiring the full name of the applicant, the applicant's residential and business address and telephone numbers, the name of the proposed license holder, the business location for which the license is sought, site plan of the space for tobacco products shop, and a copy of the educational materials the applicant intends to use to educate employees. The completed application along with the application fee shall be submitted to the city manager or designee for approval. If the city manager or designee determines that an application is incomplete, he or she shall return the application to the applicant with notice of the deficiencies.

(B) **Action:** The city manager or designee may either approve or deny the license, or may delay action for such reasonable period of time to permit the city to complete any investigation of the application or the applicant deemed necessary. If the city manager or designee approves the license, a license shall be issued to the applicant. If the city manager or designee denies the application, a notice of denial shall be sent to the applicant at the business address provided on the application along with the reasons for the denial. The notice shall also inform the applicant of their right to appeal the city manager's or designee's decision to the council pursuant to the process set forth in section [3-23-10](#) of this chapter. If a license is mistakenly issued or renewed to an applicant or license holder, it shall be revoked by the city manager or designee upon the discovery that the person, applicant or license holder was ineligible for the license under this section.

(C) **Term:** All licenses are issued for a period of one year. The license period is from July 1 to June 30.

- (D) Revocation Or Suspension: Any license issued under this section may be revoked or suspended as provided in the violations section of this chapter or other violation of this code pursuant to the process set forth in section [3-23-10](#) of this chapter.
- (E) Transfers: All licenses issued under this section shall be valid only on the business 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 without the prior approval of the city manager or designee.
- (F) Display: Every license shall be conspicuously posted at the place of business for which the license is issued and shall be exhibited to any person upon request.
- (G) Renewals: The renewal of a license under this section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license. The issuance of a license under this chapter 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.
- (H) Instructional Program: No person shall be issued a license or renewal license to sell tobacco related products unless an applicant or license holder has an approved program for instructing all employees at the business premises for which the license was issued, in the legal requirements pertaining to the sale of tobacco related products, including, but not limited to, reviewing the law on the sale of tobacco related products, providing information on the health risks of using tobacco related products, and requiring employees to request identification from every customer who appears to be under twenty seven (27) years of age. No license shall be issued unless the applicant or license holder signs a city form attesting that each employee of the applicant or license holder has received training and instruction on the sale of tobacco related products and the date such training occurred. The training shall include information that the sale of tobacco related products to minors is illegal, explains what proof of age is legally acceptable, and that a sale to a minor can subject the applicant or license holder and their employees to criminal and/or civil liability.
- (I) Certificate Of Occupancy: Any tobacco products shop shall require a certificate of occupancy for retail use from the building official and fire marshal prior to occupancy.
- (J) Responsibility: Any licensee is responsible for the activities within the licensed premises or property owned or controlled by the licensee adjacent to the licensed premises including common and parking areas.

(K) Denials: The following shall be grounds for denying the issuance or renewal of a license under this section. The following list is not exhaustive or exclusive:

1. The applicant is under the age of eighteen (18) years.
2. The applicant has been convicted within the past five (5) years of a violation of any provisions of this chapter or a violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
3. The applicant or license holder has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding twelve (12) months of the date of application.
4. The applicant fails to provide any information required on the city license application, or provides false or misleading information.
5. The applicant or license holder has outstanding fines, penalties or property taxes owed to the city.
6. The applicant or business premises is in violation of any provisions of law or this code including violation of building or fire codes, mechanical codes, zoning ordinance, property maintenance or state or federal laws.

(L) Violations: The following shall be grounds for revocation or suspension or nonrenewal of a license and fines under this section. The following list is not exhaustive or exclusive:

1. The applicant failed to provide any information required on the city license application, or provided false or misleading information.
2. The applicant or license holder has outstanding fines, penalties or property taxes owed to the city.
3. The applicant or business premises is in violation of any provision of law or this code including violation of building or fire or mechanical codes, zoning ordinance, property maintenance, or state or federal laws.
4. The licensed premises has failed one or more compliance checks as prescribed in subsection (M) of this section.
5. The applicant has not provided required educational/training materials as indicated in the application.
6. For tobacco products shops, carbon monoxide (CO) levels exceeding thirty five (35) parts per million consistent with OSHA and NIOSH standards for safe environment.
7. The licensee suffered or permitted illegal acts upon the licensed premises and parking area or on property owned or controlled by the licensee adjacent to the licensed premises (including parking areas), unrelated to the sale of tobacco.
8. The licensee had knowledge of illegal acts upon or attributable to the licensed premises, but failed to report the same to police.

(M) Compliance Checks: All licensed premises shall be open to inspection by the city or other authorized city officials during regular business hours.

1. Annual Compliance Checks: From time to time, but at least once per year, the city shall conduct compliance checks. Such compliance checks may involve, but are not limited to, engaging minors to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco related devices.
2. Minors: If minors are used for compliance checks they shall not be guilty of unlawful possession of tobacco when such items are obtained as a part of a 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 or her employee and shall produce any identification for which he or she is asked. (Ord. 1311, 12-17-2013)

3-23-4: LICENSE FEE:

The application fee shall be determined by the city council from time to time by resolution, and shall be paid at the time of application. License fees shall not be prorated. (Ord. 1311, 12-17-2013)

3-23-5: PROHIBITED SALES:

(A) Prohibited Sales: No person shall sell, offer for sale, give away, furnish, or otherwise deliver any tobacco, tobacco product, or tobacco related device:

1. To any person under the age of eighteen (18) years.
2. By means of any type of vending machine.
3. By means of self-service merchandising or any means whereby the customer may have access to such items without having to request the item from the license holder, their agents or employees. All tobacco related products shall be stored behind a counter or other area not freely accessible to customers.
4. By any other means, or to any other person, prohibited by federal, state, or other local law, ordinance provision, or other regulation.

(B) Exception: A license holder who operates an establishment that sells only tobacco related products is exempt from the self-service merchandising provision if the license holder prohibits anyone under eighteen (18) years of age from entering the establishment, unless accompanied by a parent, and the license holder conspicuously displays a notice prohibiting persons under eighteen (18) years of age from entering the establishment unless accompanied by a parent. (Ord. 1311, 12-17-2013)

3-23-6: TOBACCO PRODUCTS SHOP:

The following requirements shall apply:

- (A) For licenses issued after December 17, 2013, a minimum separation of 0.75 mile (3,960 feet at closest point on a map) from another tobacco products shop.
- (B) State building, fire and mechanical code requirements must be adhered to at all times and ventilation systems must be operable and utilized.
- (C) Tobacco products shops are prohibited from providing in exchange for a fee or any other consideration seating within or access to the indoor area of a tobacco products shop.
- (D) Hours of operation shall be between eight o'clock (8:00) A.M. and ten o'clock (10:00) P.M., seven (7) days per week including holidays.
- (E) The maximum square footage of the entire licensed premises shall not exceed two thousand (2,000) square feet. The maximum area for seating within a tobacco shop shall not exceed one-half ($1/2$) of the licensed retail display, storage and sales area. (Ord. 1311, 12-17-2013)

3-23-7: SAMPLING:

For tobacco products shops that allow sampling per state law, code required ventilation systems must be operable and utilized. The operator of any tobacco products shop is hereby prohibited from any of the following:

- (A) Except for a bona fide sale of a smoking device, providing or otherwise making available for use by a customer, potential customer, or any other person a smoking device for the purposes of sampling tobacco related products.
- (B) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a tobacco products shop; or

- (C) Permitting within the indoor area of a tobacco products shop the sampling of any tobacco and nicotine related product which was not furnished by the tobacco products shop on the date and at the time the sampling occurs. (Ord. 1311, 12-17-2013)

3-23-8: MOBILE SALES:

No license shall be issued for the sale of tobacco related products at a movable place of business, including, but not limited to, motorized vehicles, mobile sales kiosks, or trailers. (Ord. 1311, 12-17-2013)

3-23-9: VIOLATIONS:

- (A) Revocation Or Suspension: Any violation of this chapter shall be grounds to revoke or suspend a license. Life threatening fire or building code violations may result in immediate suspension and fines until corrected.
- (B) Criminal Penalty: In addition to the criminal penalties set forth in Minnesota statutes, the following shall constitute a criminal violation of this chapter:
1. It shall be a misdemeanor for anyone under the age of eighteen (18) years to use, purchase, attempt to purchase, or possess tobacco related products. This section shall not apply to a person under the age of eighteen (18) years who purchases or attempts to purchase tobacco related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
 2. Upon discovery of a suspected violation, the city shall issue a criminal citation to the minor who purchased or possessed the tobacco as set forth in subsection (B)1 of this section.
- (C) Administrative Civil Penalties; Individuals: Any person who violates this chapter is subject to an administrative civil fee as described below in addition to license revocation or suspension.
- (D) Administrative Civil Penalties; License Holder: The license holder shall be responsible for the conduct of its agents or employees while on the licensed premises. Any violation of this chapter shall be considered an act of the license holder for purposes of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
1. Notice Of Violation: Upon the occurrence of a suspected violation, the licensing department shall inform the city manager of the suspected violation. The city manager or designee shall then send to the license holder a written notice of the civil violation. The notice shall advise the

license holder of the civil penalty and the license holder's right to request a hearing regarding the violation of this chapter pursuant to section [3-23-10](#) of this chapter.

2. Civil Penalties: Each license issued hereunder shall be subject to suspension or revocation for violation of any provisions of this chapter or the laws of the state of Minnesota as follows:

Violation	Best Practices Business¹	Non-Best Practices Business
First violation	\$150.00 fine	\$500.00 fine and 3 day suspension of license
Second violation within 2 years	\$400.00 fine	\$750.00 fine and 5 day suspension of license
Third violation within 2 years	\$750.00 fine and 7 day suspension of license and best practices review panel	\$1,000.00 fine and 10 day suspension of license
Fourth violation within 3 years	\$1,000.00 fine and 7 day suspension of license and best practices review panel	Revocation: Minimum revocation period will be 2 years from the revocation date
Additional violation within 3 years	Revocation: Minimum revocation period will be 2 years from the revocation date	Revocation: Minimum revocation period will be 2 years from the revocation date

Note:

1. "Best practices" applies to those license holders who at the time of the violation are registered and in good standing with the city to participate in its tobacco "best practices program". To be in good standing there shall be no outstanding violations as listed in subsection [3-23-3\(L\)](#) of this chapter and documentation of the required instructional materials in subsection [3-23-3\(H\)](#) of this chapter have been provided to employees.

3. Criminal Prosecution: Any civil penalty, suspension or revocation or combination thereof under this section does not preclude criminal prosecution under this chapter or Minnesota statutes section 609.685. (Ord. 1311, 12-17-2013)

3-23-10: HEARING ON DENIAL OR VIOLATION:

(A) Notice Of Action: If the city manager or designee denies the issuance of a license, or suspends, or revokes a license, or imposes civil penalties as prescribed in this chapter, the manager or designee shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action, and the right to an appeal. Appeals shall be heard as set forth in section [1-4-6](#) of this code. (Ord. 1359, 11-2-2015)

(B) Findings: (Rep. by Ord. 1359, 11-2-2015)

(C) Default: If the applicant or license holder has been provided written notice of the denial or violation and if no request for a hearing is filed within the ten (10) calendar day period, then the denial, civil penalty, suspension or revocation imposed in section [3-23-9](#) of this chapter shall take immediate effect by default. The city manager or designee shall mail notice of the denial, fine, suspension or revocation to the applicant or license holder. The city shall investigate compliance with the suspension or revocation. (Ord. 1311, 12-17-2013)

3-23-11: AFFIRMATIVE DEFENSES:

It is an affirmative defense to a charge under this chapter if the license holder proves by a preponderance of the evidence that the license holder reasonably and in good faith relied on proof of age as described in chapter 340A.503, subdivision 6 of Minnesota statutes, in making the sale. (Ord. 1311, 12-17-2013)

3-23-12: SEVERABILITY:

If any provision of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this chapter. (Ord. 1311, 12-17-2013)