

CITY OF NORTH OAKS ORDINANCE 141
AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY CODE
"TOBACCO REGULATIONS"

THE CITY COUNCIL OF THE CITY OF NORTH OAKS DOES ORDAIN:

Section 1. Section 110.05, paragraph (B) of the City Code is amended to read as follows:

§ 110.05 BASIS FOR DENIAL OF LICENSE.

(B) Grounds for denying issuance or renewal.

- (1) The applicant is under the age of ~~18~~ 21 years.
- (2) The applicant has been convicted within the past 5 years of any violation of a federal, state, or local law, ordinance, or other regulation relating to tobacco, or tobacco products, or tobacco- related devices.
- (3) The applicant has had a license to sell or dispense tobacco, tobacco products, or tobacco- related devices revoked within the 12 months preceding the date of application.
- (4) The applicant fails to meet any requirement in this chapter or fails to provide any information required on the application or provides false or misleading information.
- (5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation, from holding such a license.

Sec. 2. Section 110.06, Paragraph (A) of the City Code is amended to read as follows:

§ 110.06 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell, offer to sell, or dispense any tobacco, tobacco product, or tobacco-related device:

- (A) To any person under the age of ~~18~~ 21 years;

Sec. 3. Section 110.09 of the City Code is amended to add the following paragraphs:

§110.09 RESPONSIBILITY.

(C) All licensees, at their licensed location, shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

(D) Each licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this subdivision that the person appeared to be 30 years of age or older.

Sec. 4. Section 110.10, Paragraphs (B), (C), (D), (E) of the City Code are amended to read as follows:

§110.10 COMPLIANCE CHECKS AND INSPECTIONS.

(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,~~ persons over the age of 15 years at least 17 years of age but less than 18 ~~minors~~ 21 years, who, with the prior written consent of a parent or guardian if the person is under the age of 18, to enter the licensed premises to attempt to purchase or obtain tobacco, tobacco products, or tobacco-related devices.

(C) ~~Minors~~ Persons used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel.

(D) ~~Minors~~ Persons used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when the items are obtained as a part of the compliance check.

(E) No ~~minor~~ person used in compliance checks shall attempt to use a false identification misrepresenting the ~~minor's~~ person's age, and all ~~minors~~ persons lawfully

engaged in a compliance check shall answer all questions about the person's ~~minor's~~ age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which he or she is asked.

Sec. 5. Section 110.12, Paragraph (F) of the City Code is amended to add subparagraph (3) to read as follows:

§110.12 VIOLATIONS.

(F) *Misdemeanor prosecution.*

(3) A person under the age of 21 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age shall only be subject to the alternative penalty in this Chapter and not be subject to misdemeanor prosecution.

Sec. 6. Section 110.99 of the City Code is amended to read as follows:

§ 110.99 PENALTY.

(A) *Licensees.* Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of ~~\$75~~ \$300 for a first violation of this chapter; ~~\$200~~ \$600 for a second violation at the same licensed premises within a ~~24~~36-month period; and ~~\$250~~ \$1000 for a third and each subsequent violation at the same premises within a ~~24~~36-month period. In addition, after the third violation, the license shall be suspended for not less than 7 days and may be revoked.

(B) *Other persons.* Persons other than minors regulated by division (C) below and licensees found to be in violation of this chapter shall be charged an administrative fee of \$50.

(C) *Minor.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco-related devices, shall be referred to the Northwest Youth and Family Services diversion program.

(D) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter in addition to any other penalty which may be imposed.

Sec. 7. This Ordinance will be in full force and effect from and after its passage and publication according to law.

Adopted this 12th day of January, 2023

CITY OF NORTH OAKS

Krista Wolter

Its Mayor

ATTEST:

Kevin Kress

Kevin Kress, City Administrator