

TITLE XI: BUSINESS REGULATIONS

Chapter

110. TOBACCO REGULATIONS

Wright County - Business Regulations

CHAPTER 110: TOBACCO REGULATIONS

Section

General Provisions

- 110.001 Authority
- 110.002 Purpose
- 110.003 Definitions and interpretations
- 110.004 Prohibited sales
- 110.005 Vending machines
- 110.006 Self-service sales
- 110.007 Responsibility
- 110.008 Compliance checks and inspections
- 110.009 Applicability
- 110.010 Conformity with other laws
- 110.011 Effective date

Licensing Provisions

- 110.025 License required
- 110.026 Application
- 110.027 Action
- 110.028 Term
- 110.029 Revocation or suspension
- 110.030 Location; transfers
- 110.031 Moveable place of business
- 110.032 Display
- 110.033 Renewals
- 110.034 Fees
- 110.035 Basis for denial of license

Illegal Acts

- 110.050 Generally
- 110.051 Illegal sales
- 110.052 Illegal possession
- 110.053 Illegal use

Wright County - Business Regulations

110.054 Illegal procurement

110.055 False identification

Violations

110.070 Notice

110.071 Hearings

110.072 Hearing panel

110.073 Decision

110.074 Appeals

110.999 Penalty

GENERAL PROVISIONS**' 110.001 AUTHORITY.**

This chapter is adopted under the authority and pursuant to the mandate of M.S. ' 461.12, as it may be amended from time to time, pertaining to municipal tobacco licenses.
(Ord. 13-02, passed 10-8-2013)

' 110.002 PURPOSE.

This chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, tobacco-related devices and electronic delivery devices for the purpose of enforcing existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices and electronic delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. ' 144.391, as it may be amended from time to time.
(Ord. 13-02, passed 10-8-2013)

' 110.003 DEFINITIONS AND INTERPRETATIONS.

Tobacco Regulations

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term **SHALL** means mandatory and the term **MAY** means permissive. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **COMPLIANCE CHECKS.** The system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices are following and complying with the requirements of state law through this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as by authorized state law through this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices and electronic delivery devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices and electronic delivery devices.

(B) **ELECTRONIC DELIVERY DEVICE.** Any product containing or delivering nicotine, lobelia or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. **ELECTRONIC DELIVERY DEVICE** shall include any component part of such a product whether or not sold separately. **ELECTRONIC DELIVERY DEVICE** shall not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for use in tobacco cessation treatment, or other medical purposes, and is being marketed and sold solely for that approved purpose.

(C) **INDIVIDUALLY PACKAGED.**

(1) The practice of selling any tobacco or tobacco product wrapped individually for sale. **INDIVIDUALLY WRAPPED** tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging or snuff or chewing tobacco.

(2) Cartons or other packaging containing more than a single pack or other container as described herein shall not be considered **INDIVIDUALLY PACKAGED**.

(D) **LOCATION.** The building, room, rooms or other compact space or area where tobacco is sold at retail, as specified in the tobacco license application.

(E) **MINOR.** Any natural person who has not yet reached the age of 18 years.

(F) **MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Wright County - Business Regulations

(G) **RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products, tobacco-related devices and electronic delivery devices are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores and restaurants.

(H) **SALE.** Any transfer of goods for money, trade, barter or other consideration.

(I) **SELF-SERVICE.** Open displays of tobacco, tobacco products, tobacco-related devices and electronic delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices and electronic delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco products, tobacco-related devices and electronic delivery devices between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

(J) **TOBACCO** or **TOBACCO PRODUCTS.** Any substance or item containing tobacco leaf, including, but not limited to: cigarettes; cigars; pipe tobacco, snuff; fine cut or other chewing tobacco; any other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking. **TOBACCO PRODUCTS** excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(K) **TOBACCO-RELATED DEVICES.** Any tobacco product as well as pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco product.

(L) **VENDING MACHINE.** Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco-related devices and electronic delivery devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco products, tobacco-related devices and electronic delivery devices.
(Ord. 13-02, passed 10-8-2013)

' 110.004 PROHIBITED SALES.

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco products, tobacco-related devices and electronic delivery devices:

- (A) To any person under the age of 18 years;
- (B) By means of any type of vending machine, except as may otherwise be provided in this chapter;
- (C) By means of self-service methods unless allowed under ' 110.006(B) of this chapter; and

Tobacco Regulations

(D) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.005 VENDING MACHINES.

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.006 SELF-SERVICE SALES.

(A) No licensee shall offer for sale individually packaged tobacco or tobacco products in open displays which are accessible to the public without the intervention of a store employee.

(B) Cartons and other multi-pack units may be offered and sold through open displays accessible to the public.

(C) Division (B) above will expire upon the effective date and implementation of 21 C.F.R. ' 897.16(c).

(D) The self-service restrictions described in this section shall not apply to retail establishments which derive at least 90% of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.007 RESPONSIBILITY.

(A) All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco-related devices and electronic delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.

(B) Nothing in this section shall be construed as prohibiting the county from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.
(Ord. 13-02, passed 10-8-2013)

Wright County - Business Regulations

' 110.008 COMPLIANCE CHECKS AND INSPECTIONS.

(A) All licensed premises shall be open to inspection by an authorized county official during regular business hours. From time to time, but at least once per year, the county shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minor over the age of 15 years, but less than 18 years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices and electronic delivery devices. Minors used for the purpose of compliance checks shall be trained and supervised by designated county personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, tobacco-related devices and electronic delivery devices when such items are obtained or attempted to be obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor=s age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor=s age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked.

(B) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law.

(Ord. 13-02, passed 10-8-2013)

' 110.009 APPLICABILITY.

(A) This chapter applies to all locations in the county where tobacco, tobacco products, tobacco-related devices or electronic delivery devices are sold.

(B) It is further provided, however, that in any city or township which elects to license and regulate the retail sale of tobacco, pursuant to M.S. ' 461.12, subd. 1, as it may be amended from time to time, those locations within such city or township shall be exempt from the coverage of this chapter.

(Ord. 13-02, passed 10-8-2013)

' 110.010 CONFORMITY WITH OTHER LAWS.

(A) The remedies and administrative penalties listed in this chapter are not exclusive and are in addition to any other remedies provided by law.

(B) This chapter specifically does not preclude criminal prosecution under the laws of the state relating to the use, possession or sale of tobacco.

(Ord. 13-02, passed 10-8-2013)

Tobacco Regulations

' 110.011 EFFECTIVE DATE.

This chapter took effect on 6-1-1998.
(Ord. 13-02, passed 10-8-2013)

LICENSING PROVISIONS

' 110.025 LICENSE REQUIRED.

No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related devices and electronic delivery devices without first having obtained a license to do so from the county, unless located within a town or a home rule charter or statutory city that has retained licensing authority under M.S. ' 461.12, subd. 1, as it may be amended from time to time.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.026 APPLICATION.

(A) (1) An application for a license to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices shall be made on a form provided by the county. The application shall contain the full name of the applicant, the applicant=s residential and business addresses and telephone numbers, the name of the business for which the license is sought, the location for which the license is sought and any additional information the county deems necessary.

(2) Retail sales of tobacco at more than one location, even upon the same real property and/or under common ownership, shall require multiple licenses.

(B) Upon receipt of a completed application and payment of a fee pursuant to ' 110.034 of this chapter, the County Auditor/Treasurer shall forward the application to the County Board of Commissioners for action at its next regularly scheduled Board meeting. If the County Auditor/Treasurer shall determine that an application is incomplete, the application shall be returned with notice of the information necessary to make the application complete.

(Ord. 13-02, passed 10-8-2013)

' 110.027 ACTION.

(A) The County Board of Commissioners may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary.

Wright County - Business Regulations

(B) (1) If the County Board of Commissioners shall approve the license, the County Auditor/Treasurer shall issue the license to the applicant.

(2) If the County Board of Commissioners denies the license, the notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.
(Ord. 13-02, passed 10-8-2013)

' 110.028 TERM.

Generally, licenses issued under this chapter shall be valid for one calendar year from the date of issue beginning January 1. Licenses may be issued and granted under this chapter for a fractional year thereof upon their expiration under another licensing authority, or in the case of a new license application. A license issued for a period of less than one calendar year shall expire on December 31 of that year.
(Ord. 13-02, passed 10-8-2013)

' 110.029 REVOCATION OR SUSPENSION.

Any license issued under this chapter may be revoked or suspended as provided in ' ' 110.070 through 110.074 and 110.999 of this chapter.
(Ord. 13-02, passed 10-8-2013)

' 110.030 LOCATION; TRANSFERS.

All licenses under this chapter shall be valid only at the location for which the license was issued and only for the person to who the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the County Board of Commissioners.
(Ord. 13-02, passed 10-8-2013)

' 110.031 MOVEABLE PLACE OF BUSINESS.

No license shall be issued to a moveable place of business. Only fixed retail establishments shall be eligible to be licensed under this chapter.
(Ord. 13-02, passed 10-8-2013)

Tobacco Regulations

' 110.032 DISPLAY.

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

(Ord. 13-02, passed 10-8-2013)

' 110.033 RENEWALS.

The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days, but no more than 60 days, before the expiration of the current license. The issuance of a license issued 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.

(Ord. 13-02, passed 10-8-2013)

' 110.034 FEES.

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established by resolution of the County Board of Commissioners. License fees shall be doubled in instances where there is a failure to obtain a license prior to commencing retail sales of tobacco and in instances where a license is renewed more than 30 days beyond its expiration date.

(Ord. 13-02, passed 10-8-2013)

' 110.035 BASIS FOR DENIAL OF LICENSE.

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the county must deny the license. If a license is mistakenly issued or renewed to a person, it may be revoked upon the discovery that the person was ineligible for the license under this section.

(B) Grounds for denial are:

(1) The applicant is under the age of 18 years;

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco, tobacco products, tobacco-related devices and electronic delivery devices;

Wright County - Business Regulations

(3) The applicant has had a license to sell tobacco, tobacco products, tobacco-related devices and electronic delivery devices revoked within the preceding 12 months of the date of application;

(4) The applicant fails to provide any information required on the application or provides false or misleading information;

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding such a license; and/or

(6) The applicant has failed to pay on a timely basis any administrative fine levied by the county under ' 110.999 of this chapter.
(Ord. 13-02, passed 10-8-2013)

ILLEGAL ACTS**' 110.050 GENERALLY.**

Unless otherwise provided, the following acts in this subchapter shall be a violation of this chapter.
(Ord. 13-02, passed 10-8-2013)

' 110.051 ILLEGAL SALES.

It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco products, tobacco-related device and electronic delivery device to any minor.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.052 ILLEGAL POSSESSION.

It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco products, tobacco-related devices and electronic delivery device. This section shall not apply to minors lawfully involved in a compliance check.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.053 ILLEGAL USE.

It shall be a violation of this chapter for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco products, tobacco-related device and electronic delivery device.
(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

Tobacco Regulations

' 110.054 ILLEGAL PROCUREMENT.

It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, tobacco-related device and electronic delivery device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain for use any tobacco, tobacco products, tobacco-related device and electronic delivery device. This section shall not apply to minors lawfully involved in a compliance check.

(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

' 110.055 FALSE IDENTIFICATION.

It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 13-02, passed 10-8-2013) Penalty, see ' 110.999

VIOLATIONS

' 110.070 NOTICE.

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

(Ord. 13-02, passed 10-8-2013)

' 110.071 HEARINGS.

If a person accused of violating this chapter so requests, in writing, within 30 days of the date the citation in ' 110.070 of this chapter was mailed, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(Ord. 13-02, passed 10-8-2013)

Wright County - Business Regulations

' 110.072 HEARING PANEL.

The County of Commissioners may appoint a hearing officer to handle any requested hearings under this subchapter.

(Ord. 13-02, passed 10-8-2013)

' 110.073 DECISION.

If the County Board of Commissioners determines that a violation of this chapter did occur, that decision, along with the Board=s reasons for finding a violation and the penalty to be imposed under ' 110.999 of this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the County Board of Commissioners finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded in writing a copy of which shall be provided to the accused violator.

(Ord. 13-02, passed 10-8-2013)

' 110.074 APPEALS.

Appeals of any decision of the County Board of Commissioners under this chapter shall be filed in the District Court for the county.

(Ord. 13-02, passed 10-8-2013)

' 110.999 PENALTY.

(A) *Licensees.* Any licensee found to have violated this chapter, or whose employees shall have violated this chapter, shall be charged an administrative fine of not less than \$75 for a first violation of this chapter; not less than \$200 for a second offense at the same licensed premises within a 24-month period; and not less than \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, with a third or subsequent offense, the license shall be suspended for not less than seven days.

(B) *Other individuals.* Other individuals, other than minors regulated by division (C) below, found to be in violation of this chapter shall be charged an administrative fee of not less than \$75 for a first violation of this chapter and not less than \$200 for a second offense within a 24-month period.

(C) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco-related devices or electronic delivery devices shall be charged an administrative fine of \$75 and shall be required to attend an appropriate tobacco education or tobacco cessation program from an approved source. The cost of such program shall be the responsibility of the minor attending the program.

Tobacco Regulations

(D) *Payment of fines.* Any administrative fines levied by the county pursuant to this section shall be paid within 30 days of the date of mailing for the citation or the hearing findings issued under ' ' 110.070 through 110.074 of this chapter.

(E) *Misdemeanor.* Nothing in this section shall prohibit the county from seeking prosecution as a misdemeanor for any violation of this chapter.

(Ord. 13-02, passed 10-8-2013)

Wright County - Business Regulations