

CITY OF WAYZATA
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 795
AN ORDINANCE AMENDING CHAPTER 512 (TOBACCO PRODUCTS) OF THE
WAYZATA CITY CODE

THE CITY OF WAYZATA ORDAINS:

Section 1. Amendment. Chapter 512 of the Wayzata City Code (FOOD ESTABLISHMENTS) is hereby amended to read in its entirety as follows (~~struck text deleted~~; underlined text added):

CHAPTER 512 – TOBACCO PRODUCTS

512.01 - Definitions.

The following words and terms when used in this Chapter shall have the following meanings:

- A. "Person" means one or more natural persons; a partnership, including a limited partnership; a corporation; a trust; a political subdivision of the State; or any other type of business organization.
- B. "Self-Service Merchandising" means a method of displaying tobacco-related products so that they are accessible to the public without the intervention of an employee.
- C. "Tobacco Product" means any product containing, made, or derived from tobacco, including, but not limited to cigarettes, cheroots, oil cartages 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 other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing, sniffing, or smoking in a pipe or other device.
- D. "Tobacco-Related Device" means any device intentionally designed or intended to be used in a manner to smoke, chew, inhale, sniff, or otherwise consume tobacco or tobacco products, including, but not limited to cigarette papers, pipes, e-cigarettes, and vaping kits. Tobacco-related devices include components of tobacco-related devices that are marketed or sold separately.

~~"Cigar Only Tobacco Products" means cigars only and no other tobacco products.~~

(Ord. 590 [2-27-1997])

512.02 - License Required.

No person shall directly, indirectly or by means of any mechanical device keep for sale or retail, sell at retail or otherwise dispose of any ~~tobacco products~~ Tobacco Product or Tobacco-Related Device within the City without first having been issued a license therefor.

(Ord. 590 [2-27-1997])

512.03 - Responsibility of Licensee.

Every licensee is responsible for the conduct of its employees while on the licensed premises. Any sale or transfer of ~~tobacco products~~ a Tobacco Product or Tobacco-Related Decive by an employee to a person under ~~18-21~~ years of age shall be considered an act of the licensee for the purpose of imposing an administrative fine or license suspension or revocation.

512.04 - License Fee.

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 in the City's schedule of fees.

(Ord. 590 [2-27-1997]; 2008 Recodification)

512.05 - Licensing Procedures.

All licenses issued under this Chapter shall be issued in conformance with the provisions of Chapter 501 of this Code. In addition, no license shall be issued:

- A. To any person who has been the subject of a revocation of a previous license for the retail sale of ~~tobacco products~~ Tobacco Products or Tobacco-Related Devices.
- B. To any person for the sale of Tobacco Products or Tobacco-Related Devices ~~tobacco products~~ at any place other than his established place of business.
- C. For the sale of ~~tobacco products~~ Tobacco Products or Tobacco-Related Devices at a movable place of business.
- D. At more than one location. If any person maintains more than one location for the retail sale of Tobacco Products or Tobacco-Related Devices ~~tobacco products~~, then each location must be separately licensed.

(Ord. 590 [2-27-1997])

512.06 - Prohibited Acts.

It shall be a violation of this Chapter for any person to do the following:

- A. Sell, give or furnish any tobacco products to any person under the age of ~~18~~ 21 years.
- B. Sell, give, furnish or dispense tobacco products by vending machine, unless the vending machine is electronically activated for each transaction by the licensee or a person in their employ, and the machine is in direct view of the person activating it.
- C. Sell or offer for sale Tobacco Products or Tobacco-Related Devices ~~tobacco products~~ by means of self-service merchandising.

(Ord. 590 [2-27-1997])

512.07 - Administrative Penalties.

Each license issued hereunder shall be subject to administrative fines, suspension or revocation for violation of any provisions of this Chapter or the laws of the State of Minnesota. The City Manager or his designee shall proceed in the manner as prescribed herein and is authorized to take the following action:

First (1st) Offense Within Two Years: ~~\$100.00~~ 200.00 ~~and/or one day license suspension.~~

Second (2nd) Offense Within Two Years: ~~\$250~~ 500.00 ~~and/or two day license suspension.~~

Third (3rd) Offense Within Two Years: ~~\$500~~ 750.00 and/or ~~thirty~~ thirty-three day license suspension.

Four or More Offenses: ~~\$1,000.00 and/or~~ 1 license revocation.

(Ord. 590 [2-27-1997])

512.08 - Notice and Hearing.

The licensee shall be notified in writing of the proposed action to be taken and the reasons therefor and shall be given ten days to request a hearing before the City Council for a determination of the action to be taken. If the licensee does not request a hearing within the ten days, then the City Manager shall make such order as he deems proper. If the licensee makes a request for a hearing then one shall be held before the City Council in accordance with the provisions of Section 501.09 of this Code. After considering all the evidence, the City Council shall make a determination concerning the action to be taken against the licensee.

(Ord. 590 [2-27-1997])

~~512.09—Criminal Penalties.~~

- ~~A.— It shall be a gross misdemeanor for anyone to sell tobacco products to a person under the age of 18 years.~~
- ~~B.— It shall be a misdemeanor for anyone to furnish tobacco products to a person under the age of 18 years.~~
- ~~C.— It shall be a petty misdemeanor for anyone under the age of 18 years to use, purchase, attempt to purchase or possess tobacco products. This provision shall not apply to a person under the age of 18 years who is employed in an establishment licensed to sell tobacco products who is selling or stocking them.~~
- ~~D.— All other violations of this Chapter shall be a misdemeanor.~~

Section 3. Effective Date.

3.1 This Ordinance will become effective upon passage and publication.

Adopted by the City Council this 4TH day of February 4, 2020.

Ken Willcox
Mayor

ATTEST:

Jeffrey Dahl
City Manager

First Reading: January 21, 2020
Second Reading: February 4, 2020
Publication: February 13, 2020