



8301 Valley Creek Road • Woodbury, MN 55125-3330 • woodburymn.gov
651-714-3500 • TDD 651-714-3568 • FAX 651-714-3501

Thank you for your interest in obtaining a tobacco sales license from the City of Woodbury. Below are step by step instructions for completing the application. **All application materials must be received before your application will be processed.**

Tobacco Sales License Fees:

- | | |
|---------------------------------|----------|
| 1. Annual License Fee | \$300.00 |
| 2. Background Investigation Fee | \$250.00 |

The following information must be completed to apply for a Tobacco Sales License:

Proof of Identification – Applicant

For purposes of proof of identification, the "applicant" shall mean the on-site manager or agent for a retail establishment filing the application and the natural person signing the application for a tobacco sales license)

	A valid driver's license or identification card issued by Minnesota, another state, or province of Canada, and including the photograph and date of birth of the license person
	A valid military identification card issued by the US Dept. of Defense
	A valid passport issued by the US; or
	In the case of a foreign national, by a valid passport

Application Part I – General Information to be completed by:

	Individual App: by such individual
	Partnership App: by one of the partners
	Corporation App: by an officer of the corporation
	Other Organization: by the manager or managing officer

Other Business/Insurance Documents Needed:

	Copy of Certificate of Organization (issued by the MN Secretary of State)
	Copy of Signed Lease Agreement (if applicant does not own premise)
	If an applicant or entity has an interest and has the legal duty to pay property taxes or assessment, a statement stating these items are current. If delinquent, a statement indicating years for which the taxes on the premises are delinquent.
	Proof of general liability coverage
	Completed Certificate of Compliance – MN Work Comp Form
	Completed MN Department of Revenue Form CT102

Tobacco Sales License Information Letter
Page 2 of 2

Part II – Personal History Form – To be completed by all persons or entities that have five percent (5%) or more financial interest in the business

	Sole Owner
	Each Partner
	Each Officer or director
	Proprietor
	On site manager
	Background Investigation Consent to Release and Tennessee Warning Form

Once a tobacco sales license has been approved, it is the owner's responsibility to contact the City Clerk with any changes in new owners, officers and/or on-site manager. All new owners, officers and on-site managers are required to complete a Part II application packet with the required documents.

The City Clerk and Woodbury Police Department will review the materials submitted and conduct a background investigation. You will be notified if additional information is needed.

The Woodbury City Council may either approve or deny the license. If the Council shall approve the license, the City Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.

Questions regarding Tobacco Sales licensing may be directed to Jennifer Torning at Jennifer.Torning@woodburymn.gov or at 651-414-3471.

TOBACCO SALES LICENSE APPLICATION

Part I – General

10. Has the applicant had a tobacco sales license suspended or revoked?
☐ **Yes** ☐ **No** *If yes, provide date, place, and explanation.*

11. Has the applicant ever been convicted of or charged with a felony, crime, or violation of any federal, state, county, or local law or regulation other than a minor traffic violation?

☐ **Yes** ☐ **No** *If yes, provide date, place, and nature of offense.*

Section 1: Complete Information for Applicable Applicant Type

Refer to Question No. 1 for applicant type and complete only the section below 12a, 12b or 12c that applies.

NOTE: A Part II-Personal History form is required for each person listed in this section.

- 12a. **Individual:** If applicable, complete this section, then proceed to Section 2. A Part II-Personal History form is required.

Name _____
Last First Full Middle Maiden Name

- 12b. **Partnership:** If applicable, complete this section, then proceed to Section 2. List the names and financial interest of each partner. A Part II-Personal History form is required from each partner.

Name _____
Last First Full Middle Maiden Name

Financial interest _____ %

Name _____
Last First Full Middle Maiden Name

Financial interest _____ %

Name _____
Last First Full Middle Maiden Name

Financial interest _____ %

Name _____
Last First Full Middle Maiden Name

Financial interest _____ %

For additional partners, attach separate sheet.

Attach: Copy of Partnership Agreement.

- 12c. **Corporation/Other Organization:** If applicable, complete this section for corporations, then proceed to Section 2.

Name of corporation _____ State of _____
or organization _____ incorporation _____

List the officers of the corporation and all persons or entities with a financial interest of five percent (5%) or more. A Part II-Personal History form is required from each.

President (or other title _____) Financial interest _____ %

Name _____
Last First Full Middle Maiden Name

Vice President (or other title _____) Financial interest _____ %

Name _____

Last

First

Full Middle

Maiden Name

Secretary (or other title _____) Financial interest _____ %

Name _____
 Last First Full Middle Maiden Name

Treasurer (or other title _____) Financial interest _____ %

Name _____
 Last First Full Middle Maiden Name

Owner (or other title _____) Financial interest _____ %

Name _____
 Last First Full Middle Maiden Name

Owner (or other title _____) Financial interest _____ %

Name _____
 Last First Full Middle Maiden Name

For additional officers, persons, or entities attach separate sheet.

Attach: 1. *Copy of Certificate of Incorporation.*
 2. *Foreign corporations, attach a Certificate of Authority as required by Minn. Stat. § 303.06.*

Section 2: Person(s) In Charge of Licensed Premises

13. Designated on-site manager in charge of the licensed premises. *The on-site manager is responsible for the conduct of the licensed premises and operation; and serves as agent for service of notices and other processes relating to the license.*

Name _____
 Last First Full Middle Maiden Name

For additional manager(s) or agent(s), attach separate sheet.

Attach: *Part II-Personal History form is required from each person in charge.*

Section 3: Insurance

14. **Attach:** 1. *Certificate of Liability Insurance* showing general liability insurance.
 2. *Workers' Compensation* insurance coverage as required by Minnesota law.
 I am **not** required to have *Workers' Compensation* insurance coverage because:
☐ I have no employees covered by the law ☐ Other (*Specify on reverse side*)

Section 4: Notice and Notarized Signature

I hereby acknowledge that I have received and/or reviewed Chapter 11, Licenses, Permits and Miscellaneous Business Regulations, Article II Tobacco Sales of the City Code, and am familiar with the provisions thereof.

The information requested on this form will be used by the City of Woodbury to approve or deny the applicant's license. The information I have provided on this application is truthful. I understand that the falsification or misrepresentation of information submitted with my application constitutes grounds for denial of the license. I authorize the City of Woodbury to verify any and all of the information requested on this application, including the ordering of criminal background checks, and to conduct any necessary investigation to assure this application complies with the City's licensing and zoning ordinances.

The information supplied on this form will become public information when received by the City of Woodbury. Under Minnesota law (Minn. Stat. § 270.72), the City may be required to provide the business tax identification number and/or social security number of each applicant to the Minnesota Commissioner of Revenue.

X _____
Applicant Signature

Print Name

Subscribed and sworn to before me this

_____ day of _____, 20_____

(Seal)

(Notary Public/City Clerk)

For office use only:

Date Application Received _____

Date Fee Paid _____

Amount Paid _____

Receipt No. _____

Name of Entity Paying Fee _____

CITY OF WOODBURY
DEPARTMENT OF ADMINISTRATION
CLERK DIVISION
8301 VALLEY CREEK ROAD, WOODBURY, MN
55125 Telephone: 651-414-3471

TOBACCO SALES LICENSE APPLICATION
Part II – Personal History

To be completed by the sole owner, each partner, each officer or director, each general or on-site manager, proprietor, manager or any other individual or agent in charge of the business or premises and by all persons or entities that have a five percent (5%) or more financial interest in the tobacco sales business.

Section 1: Business

1. Complete the following for the tobacco sales business you are employed by, affiliated with, or own:

Business name _____ Phone (____) _____

Business address _____
Street City State Zip

Email address _____

2. What percentage (%) of financial interest do you have in this tobacco sales business? _____ %

Section 2: Applicant

3. Complete the following personal information:

Legal name _____
Last First Full Middle Maiden Name

Address _____
Street City County State Zip

Phone (____) _____ Social Security No. _____

Driver License No. _____ State of issue _____

Weight _____ Height _____ Eye color _____

Date of birth _____ Place of birth _____
mm/dd/yyyy City/State/Country

4. **Have you ever used or been known by a name(s) other than the legal name given above?** ☐ Yes ☐ No
If yes, list such name(s) and information concerning dates and places used.

5. **Are you a U.S. citizen or legally permitted to be in the U.S?** *If yes, but birthplace was not in the U.S., please provide a Certificate of Naturalization, Certificate of Citizenship, or current passport. If no, present proof of immigration/employment status.* ☐ Yes ☐ No

6. **Address(es) at which you have lived during the preceding ten (10) years.**

Street	City	State	Zip	Dates
Street	City	State	Zip	Dates
Street	City	State	Zip	Dates
Street	City	State	Zip	Dates
Street	City	State	Zip	Dates

7. **Employers for the preceding ten (10) years.** *Include name, address, and dates of employment.*

Employer	Address	Dates
Employer	Address	Dates
Employer	Address	Dates
Employer	Address	Dates
Employer	Address	Dates

8. **Have you been convicted as an adult within the last five years of any felony, gross misdemeanor, or misdemeanor violations of any state or federal statute or any local ordinance other than non-moving vehicle minor traffic offenses? Please exclude any juvenile or expunged cases?** *If yes, please list below.* ☐ Yes ☐ No

9. **Have you individually, or with others, made an application for a tobacco sales license which was denied?** *If yes, provide date, place and explanation.* ☐ Yes ☐ No

10. **Have you had a tobacco sales license suspended or revoked?** *If yes, provide date, place, and explanation.* ☐ Yes ☐ No

Section 3: Notice and Notarized Signature

I hereby acknowledge that I have received and/or reviewed Chapter 11, Licenses, Permits and Miscellaneous Business Regulations, Article II Tobacco Sales of the City Code, and am familiar with the provisions thereof.

The information requested on this form will be used by the City of Woodbury to approve or deny the applicant's license. The information I have provided on this application is truthful. I understand that the falsification or misrepresentation of information submitted with my application constitutes grounds for denial of the license. I authorize the City of Woodbury to verify any and all of the information requested on this application, including the ordering of criminal background checks, and to conduct any necessary investigation to assure this application complies with the City's licensing and zoning ordinances.

The information supplied on this form will become public information when received by the City of Woodbury. Under Minnesota law (Minn. Stat. § 270.72), the City may be required to provide the business tax identification number and/or social security number of each applicant to the Minnesota Commissioner of Revenue.

X _____
Applicant Signature

Print Name

Subscribed and sworn to before me this

_____ day of _____, 20____

(Seal)

(Notary Public/City Clerk)



Department of Administration – Clerk Division – Licensing
8301 Valley Creek Road, Woodbury, MN 55125 - 651-414-3471
Jennifer.Torning@woodburymn.gov

Background Investigation Consent Release and Tennesen Warning Release Form:

This document is to be completed by the sole owner, by each partner, by each officer or director, by each manager, proprietor or other person with management responsibilities for the premises, by each person who by combined ownership or control has interest in a corporation or association in excess of five percent (5%)

As a Tobacco Sales License applicant, I hereby give my consent for a personal background investigation, to include a criminal history check, to be used in the determination of whether my application is to be approved. Some information attained in such an investigation may be considered public data under the Minnesota Government Data Practices Act before or after the City Council acts to approve or deny the permit application. I understand that I am under no legal obligation to consent to such investigation, but that my refusal to so consent may be the basis for denying my application.

Personal Information – Please Print

First Name:		Middle Name:	Last Name:
Current Address (street address, city, state, zip code, and county)			Telephone Number
Alias Name(s)		Former Name(s)	
Driver's License Number and State of Issuance		Date of Birth	

Tennesen Warning: In connection with your request for a Tobacco Sales License, the City has asked that you provide information about yourself which may be classified as private, confidential, nonpublic, or protected nonpublic under the Minnesota Government Data Practices Act. This means that this data is not ordinarily available to the general public. Accordingly, the City is required to inform you of the following:

1. The purpose and intended use of the information requested is to determine if you are eligible for a Tobacco Sales License within the City of Woodbury.
2. You are not legally obligated to supply the requested information.
3. The known consequences of supplying the requested information is that the information or further investigation could disclose information which could cause your application to be denied.
4. The consequences of refusing to supply the requested information is that your request for a Tobacco Sales License cannot be processed.
5. A criminal charge, arrest, or conviction will not necessarily bar you from obtaining a Tobacco Sales License within the City, unless the conviction is related to the matter for which the Tobacco Sales License is sought according to Minnesota Statute 364.03. However, failure to reveal the requested criminal information will be considered falsification of the application and may be used as grounds for the denial of the application.
6. Other governmental agencies necessary to process your application are authorized by law to receive the information provided.
7. The City is required by law to furnish some of this information to the Department of Labor and Industry and the Minnesota Commissioner of Revenue.

The undersigned, by signing this notice, acknowledges that he/she has read and understood the contents of this notice and has received a copy of this notice. I may revoke this authorization in writing at any time and in no event will it be valid for more than one year from the date below. Copies of this release shall be as effective as the original.

Signature

Date Signed

Certificate of Compliance

Minnesota Workers' Compensation Law

This form must be completed by the business license applicant.

Print in ink or type

Minnesota Statutes § 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minn. Stat. chapter 176. 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.

License or certificate number (if applicable)	Business telephone number	Alternate telephone number
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Business name (Provide the legal name of the business entity. If the business is a sole proprietor or partnership, provide the owner's name(s), for example John Doe, or John Doe and Jane Doe.)

DBA ("doing business as" or "also known as" an assumed name), if applicable

Business address (must be physical street address, no P.O. boxes)	City	State	ZIP code
County	Email address		

You must complete number 1 or 2 below.

Note: You must resubmit this form to the authority issuing your license if any of the information you have provided changes.

1. ☐ I have a workers' compensation insurance policy.

Insurance company name (not the insurance agent)

Policy number	Effective date	Expiration date
---------------	----------------	-----------------

- ☐ **I am self-insured for workers' compensation.** (Attach a copy of the authorization to self-insure from the Minnesota Department of Commerce; see www.mn.gov/commerce/industries/insurance/licensing/self-insurance.)

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

- ☐ I only use independent contractors and do not have employees. (See [Minn. Stat. § 176.043](#) for trucking and messenger courier industries; [Minn. Stat. § 181.723, subd. 4](#), for building construction; and [Minnesota Rules chapter 5224](#) for other industries.)
- ☐ I do not use independent contractors and have no employees. (See [Minn. Stat. § 176.011, subd. 9](#), for the definition of an employee.)
- ☐ I use independent contractors and I have employees who are not required to be covered by the workers' compensation law. (Explain below.)
- ☐ I only have employees who are not required to be covered by the workers' compensation law. (Explain below.) (See [Minn. Stat. § 176.041](#) for a list of excluded employees.)

Explain why your employees are not required to be covered

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

Print name

Applicant signature (required)	Title	Date
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If you have questions about completing this form or to request this form in Braille, large print or audio, call (651) 284-5032 or 1-800-342-5354.

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		The Minnesota Tax ID must be issued in the same legal name of the licensee below.		<i>FOR MUNICIPAL USE ONLY</i>	
					License Authority	
					License Number	
					Period Covered	
					Date of Issuance	
	Cigarettes/tobacco products will be sold (<i>a separate license is required for each location or vending machine</i>): ☐ Over Counter ☐ Through Vending Machine ☐ Both					
	Licensee's Legal Name				Federal Employer ID Number (FEIN)	
	Business Trade Name (doing business as)				Daytime Phone	
Complete Address of Business Location (<i>permit location</i>)				County	Other Phone Number	
City		State	ZIP Code	Fax Number		
Mailing Address (<i>if different than business address</i>)		City	State	ZIP Code	Email Address	

Business Information	Type of legal organization (<i>check one</i>):			
	☐ Sole proprietor		☐ Minnesota corporation: Enter date of incorporation _____	
	☐ Partnership		☐ Out-of-state corporation: State of incorporation _____	
	☐ Other (<i>describe</i>) _____		Are you registered to do business in Minnesota? ☐ Yes ☐ No	
	Corporate officers or partners (<i>attach a list if necessary</i>)			
	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 and tobacco from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue. The Cigarette and Tobacco Distributor List is on our website. Go to www.revenue.state.mn.us and type Distributor List in the Search box.			
	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, email or fax to:

Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331.

Fax: 651-556-5236. Email: cigarette.tobacco@state.mn.us

Form REV185b, Authorization to Release Business Tax Information

Read instructions before completing this form.

Business Taxpayer Information	Business Taxpayer Name			Minnesota or Federal Employer Identification Number (FEIN)		
	Street Address or PO Box			Phone Number		Fax Number
	Apt. or Suite			For combined business returns: Filing entity name (if different)		
	City	State	ZIP Code	Filing entity FEIN/TIN		

Recipient	Name of Person to Receive Return Information			Attorney Number, Accountant Number, or PTIN		
	Street Address or PO Box			Phone Number		
	Apt. or Suite			Fax Number		
	City	State	ZIP Code	Email Address		

Type of Information	The person above is authorized to receive and inspect nonpublic data about the business for the following:					
	Type of Tax (Such as Business Income, Sales, Withholding) or Debt Issue			Tax Form Name or Number (If applicable)		Extended Expiration Date
						/ /
						/ /

Signature	This authorization is not valid until it is signed and dated by someone with legal authority to sign agreements on behalf of the business taxpayer.					
	<i>I certify that I have the legal authority to sign this form.</i>					
	Signature		Date	Address, If Different from Taxpayer		

Print Name and Title		Phone Number	City	State	ZIP Code
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Send a signed copy of this form to the department:

Mail: Minnesota Department of Revenue, Mail Station 7703, 600 Robert Street North, St. Paul, MN 55146

Fax: 651-556-5210

Email: MNDOR.POA@state.mn.us

Form REV185b Instructions**Purpose of This Form**

By signing this form, you authorize the Minnesota Department of Revenue to release nonpublic data to the person above.

An authorized recipient may inspect or receive nonpublic data, but may not act on your behalf. To grant additional authority, complete Form REV184b, *Business Power of Attorney*.

Individuals

To authorize the department to release private data about an individual, complete Form REV185i, *Authorization to Release Individual Tax Information*.

Your Signature

Owners or officers: Sign, date, print your name and title, and enter your contact information.

We reserve the right to request additional information as needed.

Expiration

This authorization expires once the data is released. To extend the amount of time this authorization is valid for, indicate when you want it to expire in the Tax Type or Issue section of this form.

Questions?Website: www.revenue.state.mn.usEmail: MNDOR.POA@state.mn.us

Phone: 651-556-3003 or 1-800-657-3909

ARTICLE II. TOBACCO SALES¹

Sec. 11-16. Purpose.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco related devices and nicotine or lobelia delivery devices, and such sales, possession and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several severe health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, tobacco related devices, and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, and nicotine or lobelia 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 Minn. Stats. § 144.391, public policy.

(Ord. No. 1880, § 1, 6-25-2014)

State law reference(s)—Municipal cigarette license, M.S. §§ 461.12—461.15.

Sec. 11-17. Definitions and interpretations.

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. The following terms shall have the definitions given to them:

- (1) *Compliance checks.* The process or protocols the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, and nicotine or lobelia delivery devices are following and complying with the requirements of law. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices for educational research and training purposes as authorized by state and federal law. 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 nicotine or lobelia delivery devices.
- (2) *Individually packaged.* 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 of

¹Editor's note(s)—Ord. No. 1880, § 1, adopted June 25, 2014 , repealed the former Art. II, §§ 11-16—11-29, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Code 1985, §§ 1504.01—1504.06; Ord. No. 1567, §§ 1567.02, 1567.03, 4-24-91; Ord. No. 1664, § 1664.01, 1-14-98; Ord. No. 1820, § 1820.01, 5-27-09.

snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

- (3) *Indoor area.* All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.
- (4) *Loosies.* The common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, or more than \$2.00 per cigar.
- (5) *Minor.* Any person who has not yet reached the age of 18 years.
- (6) *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.
- (7) *Nicotine or lobelia delivery devices.* Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States food and drug administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- (8) *Retail establishment.* Any place of business where tobacco, tobacco products, tobacco related devices or nicotine or lobelia delivery devices are available for sale to the general public. The phrase shall include but not limited to, grocery stores, convenience stores, restaurants and drugstores.
- (9) *Sale.* Any transfer of goods for money, trade, barter or other consideration.
- (10) *Self-service merchandising.* Open displays of tobacco, tobacco products, tobacco related devices or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices without the assistance or intervention of the licensee or the licensee's employee. Such assistance or intervention shall involve the actual physical exchange of the tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery devices between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer. "Self-service merchandising" shall not include vending machines.
- (11) *Smoking.* Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes carrying a light or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.
- (12) *Tobacco or tobacco products.* Tobacco and tobacco products includes cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; pipe tobacco; snuff, fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flour; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds or forms of tobacco. Tobacco 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.

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- (13) *Tobacco related services.* Include any tobacco product as well as a 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 products.
 - (14) *Vending machine.* Any mechanical, electric or electronic, or other type of self-service device which, upon the insertion of money, tokens or other form of payment, dispenses the tobacco, tobacco product or tobacco related devices and includes vending machines equipped with manual, electric or electronic locking devices.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-18. License.

No person shall sell or offer to sell any tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery device without first having obtained a license to do so from the city clerk.

- (a) *Application.* An application for a license to sell tobacco, tobacco products, tobacco related devices or nicotine or lobelia delivery device shall be made on a form provided by the city and filed, along with all required fees, with the city clerk. The investigation fee is applied to the city's costs of the background investigation of the retail establishment and all person or entities that have at least a five percent financial interest in the retail establishment. The property must be in compliance with all applicable laws and ordinances. The public safety department shall conduct the background investigation before consideration by the city. All applications shall thereafter be considered and approved or denied by the city council.

(1) *All applicants:*

- a. Whether the applicant/owner is an individual, corporation, partnership, or other form of organization;
- b. Full name, address, date and place of birth, and telephone number of the applicant, all owners and operators, including the designated on-site manager or agent of the applicant;
- c. The address of the premises where the retail establishment is to be located if proposed to have a fixed location in which the retail services are provided and if the applicant does not own the premises, a copy of the lease agreement to occupy the premises;
- d. Statement of whether all taxes and special assessments due and owing on the premises on which the applicant proposes to operate the massage therapy business are current, and if taxes are delinquent, the years for which the taxes on the premises are delinquent (this information is required by the applicant only if the applicant or other entity in which the applicant has an interest has the legal duty to pay said property taxes or assessments due and owing);
- e. The name of the business if the business is to be operated under a name or designation other than the name of the applicant. This shall be accompanied by a certified copy of the certificate required by Minn. Stats. §§ 333.01 and 333.02;
- f. Proof of general liability insurance;
- g. The applicant shall produce at time of filing application the applicant's proof of identification which may be established only by one of the following:
 - 1. A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the license person;

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2. A valid military identification card issued by the United States Department of Defense;
 3. A valid passport issued by the United States; or
 4. In the case of a foreign national, by a valid passport.

For purposes of proof of identification, the "applicant" shall mean the on-site manager or agent for a retail establishment filing the application and the natural person signing the application for a tobacco sales license;

- h. The application shall identify the full name, address, date and place of birth, and telephone number of the natural person, designated by the applicant as the tobacco sales business's on-site manager or agent, along with the notarized written consent of such a person to: (1) take full responsibility for the conduct of the license premises operation; and (2) serve as agent for service of notices and other process relating to the licenses;
- i. With respect to the owner, operator, or any person who has a five percent financial interest in the proposed licensed tobacco sales business and the appointed on-site manager or agent of the applicant, information as to any and all criminal convictions of any state, county, or local law or regulation;
- j. Proof of Workers' Compensation Insurance as required by Minnesota law; and
- k. Information as to any and all criminal conviction(s) of any state, county, or local law or regulation;
- l. Such other information as the city shall require.

(2) *Individual(s) (sole proprietor):*

- a. The full name, address, date and place of birth, and telephone number of the applicant;
- b. Whether the applicant and on-site manager or agent have ever used or have been known by a name other than his or her name on the application, and if so, the name or names used and information concerning dates and places were used;
- c. Whether the applicant is a United States citizen or is legally permitted to be in the United States and providing proof thereof;
- d. The street and city addresses at which the applicant and on-site manager or agent lived during the preceding ten years;
- e. Names, addresses, and date of the applicant's and on-site manager's or agent's employers for the preceding ten years;
- f. Whether the applicant and on-site manager or agent have ever been engaged in the operation of tobacco sales. If so, they shall furnish information as to the name, place, and length of time of the involvement in such an establishment; and
- g. Such other information as the city shall require.

(3) *Partnerships:*

- a. The full name(s), address(s), date and place of birth, financial interest of all general partners and all of the information concerning each general partner that is required of applicants in provision (2) of this section;
- b. The full names(s), addresses, date and place of birth, and telephone number of the manager partner(s) and the interest of each managing partner in the business;

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- c. A copy of the partnership agreement shall be submitted with the application. The license shall be issued in the name of the partnership; and
 - d. Such other information as the city shall require.
- (4) *Corporations and other organizations:*
- a. The name of the corporation or business firm, and if incorporated, the state of incorporation;
 - b. A copy of the certificate of incorporation shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by Minn. Stats. § 303.06, shall be attached;
 - c. The name of the manager(s), proprietor(s) or other agents(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in provision (2) of this section;
 - d. A list of all persons who own or have a five percent or more interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in paragraph (2) of this section; and
 - e. Such other information as the city shall require.
- (b) *Action.* The council 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. If the council shall approve the license, the city clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.
- (c) *Term.* All licenses issued under this article shall be valid for one year running from April 1 through March 31.
- (d) *Revocation or suspension.* Any license issued under this article may be revoked or suspended as provided in section 11-28, violations and penalties, of this article.
- (e) *Transfers.* All licenses issued under this article shall be valid only on the 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 council.
- (f) *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.
- (g) *Display of license.* The license of the tobacco sales establishment shall be displayed in an open and conspicuous place on the premises and shown to law enforcement officers upon request.
- (h) *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 60 days but no more than 90 days before the expiration of the current license.
- (i) *Issuance as privilege and not a right.* The issuance of a license issued under this article 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.
- (j) *Smoking not permitted.* Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco sales license. Smoking for the purposes of sampling tobacco, tobacco products, tobacco related devices, and nicotine or lobelia delivery devices is prohibited.

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- (k) *E-cigarettes*. Smoking of e-cigarettes is prohibited in any area that Minnesota State Statute restricts the smoking of tobacco products and in those establishments licensed for the sale of tobacco products with the exception of businesses licensed to sell alcohol. E-cigarette vapor lounges issued a tobacco sales license prior to June 24, 2014 are exempt from this prohibition.

(Ord. No. 1880, § 1, 6-25-2014 ; Ord. No. 1898, § 1, 2-25-2015)

State law reference(s)—Municipal tobacco license, Minn. Stat. § 461.12.

Sec. 11-19. License fee.

No license shall be issued under this article until the appropriate license fee shall be paid in full. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. The annual fee for a license under this article is established by the city council by ordinance.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-20. Basis for denial of license.

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

- (1) The applicant or owner(s) is under the age of 18 years.
- (2) The applicant, owner(s) or the appointed on-site manager or agent of 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 or nicotine or lobelia delivery devices.
- (3) The applicant or owner(s) has had a license to sell tobacco, tobacco products, tobacco related devices or nicotine or lobelia delivery devices revoked, in the City of Woodbury or in any other place within the preceding 12 months of the date of application.
- (4) The applicant or owners(s) fails to provide any information required on the application, or provides false or misleading information.
- (5) The tobacco sales business is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the state, county or city are due, delinquent, and unpaid, provided the applicant or owner(s) or other entity in which the applicant or owner(s) has an interest has the legal duty to pay said taxes, assessments, or claims due and owing.
- (6) The applicant or owner(s) was charged with a crime that if convicted would render them ineligible for a license under this chapter but entered into a plea agreement providing for the continuance of the charge for dismissal or other delayed disposition. In such case the applicant shall be disqualified and ineligible for a license under this chapter until such time as the charge is finally dismissed.
- (7) The applicant or owner(s) has been denied a license under this chapter within the preceding 12 months.

(Ord. No. 1880, § 1, 6-25-2014; Ord. No. 1893, § 1, 12-10-2014 ; Ord. No. 1898, § 1, 2-25-2015)

Sec. 11-21. Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, tobacco related devices, or nicotine or lobelia delivery devices:

- (1) To any person under the age of 18 years.
- (2) By means of any type of vending machine.
- (3) By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer. All tobacco, tobacco products, tobacco related devices, and nicotine or lobelia delivery devices shall be stored behind the counter.
- (4) By means of "loosies" as defined in section 11-17(4) of this article.
- (5) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic, or toxic or controlled substance except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process.
- (6) By any other means or to any other person, prohibited by federal, state or other local law, ordinance provision, or other regulation.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-22. Vending machines prohibited.

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices by the means of a vending machine.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-23. Self-service sales.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, tobacco related devices, nicotine or lobelia delivery devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, tobacco related devices, and nicotine or lobelia delivery devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public. New retailers selling tobacco commencing business after the effective date hereof shall comply with this section immediately.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-24. Responsibility.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, nicotine or lobelia delivery devices on the licensed premises, and the sale of such an item by an employee shall also be considered a sale by the license holder. Nothing in this

section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-25. Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. 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, minors over the age of fifteen (15) years but less than eighteen (18) years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase or the unlawful possession of tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices when such items are 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. Nothing in this section shall prohibit other 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. No. 1880, § 1, 6-25-2014)

Sec. 11-26. Other illegal acts.

Unless otherwise provided, the following acts shall be a violation of this article.

- (1) *Sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco products, tobacco related device, or nicotine or lobelia delivery device to any minor.
- (2) *Possession.* It shall be a violation of this article for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.
- (3) *Use.* It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device or nicotine or lobelia delivery device.
- (4) *Procurement.* It shall be a violation of this article for any minor to purchase or sell or attempt to purchase or sell or otherwise obtain any tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery device and it shall be a violation of this article for any person to purchase or sell to 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 or use any tobacco, tobacco product, tobacco related device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.
- (5) *False Identification.* It shall be a violation of this article 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.
- (6) Notwithstanding any exceptions for tobacco products shops as set forth in the Minnesota Clean Indoor Air Act, no licensee shall directly or indirectly permit smoking in the licensed premises. All licenses

under this chapter shall be responsible for the actions of their employees and patrons in regard to any smoking in the licensed premises. E-cigarette vapor lounges issued a tobacco sales license prior to June 24, 2014 are exempt from the prohibition for the exclusive purposes of e-cigarette vapor sampling.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-27. Violations

- (a) *Administrative procedures.* Any violation of this article may be prosecuted by the issuance of an administrative citation and resolved in accordance with chapter 25, article III, administrative citations and civil penalties, of the City Code.
- (b) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking criminal prosecution under Minn. Stats. § 609.685, or its equivalent. Any minor found in violation of section 11-26 shall be guilty of a misdemeanor. Whoever violates any other provision of this article shall be guilty of a misdemeanor. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.
- (c) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-28. Penalties.

- (a) *Licensees.* Any retail license or permit issued or approved under this chapter shall be suspended for a minimum of 60 days or revoked upon finding that within one calendar year, the retail licensee is responsible for three violations which fail to comply with applicable statutes, rule or article related to the sale, possession and use of tobacco, tobacco products, tobacco related devices, nicotine or lobelia delivery devices. No suspension or revocation shall take effect until the licensee or permit holder has received proper notice and has been afforded an opportunity for a hearing before the city council city's selected impartial examiner. The city council may impose penalties provided in this section on the retail licensee who sells tobacco, tobacco products, tobacco related devices, nicotine or lobelia delivery devices as defined in this article to any persons under the age of 18 years. Nothing in this section shall prohibit the city from seeking an administrative penalty as provided by resolution of the city council.
- (b) *Minors.* Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco related devices, nicotine or lobelia delivery devices shall be fined and/or shall be required to attend tobacco related education classes, diversion programs, community services, or pay such other penalty as the city believes would be appropriate and effective.
- (c) *Other individuals.* Other individuals, other than minors regulated by subsection (b) of this section, found in violation of this article shall be charged an administrative penalty as provided by ordinance of the city council.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-29. Appeal.

- (a) *Notice of action:* If the city clerk or designee denies the issuance of a license or revokes a license that has been issued, the applicant must be notified in writing of the decision the reasons for the denial or revocation and the applicant's right to appeal the denial or revocation by requesting, within 20 days of receiving notice of the denial or revocation, a hearing before the city's selected impartial examiner. The city's selected

impartial examiner shall hear the appeal within 20 days of the date of the request. The decision of the city's selected impartial examiner can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(Ord. No. 1880, § 1, 6-25-2014)

Sec. 11-30. Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

(Ord. No. 1880, § 1, 6-25-2014)

State law reference(s)—Municipal cigarette license, M.S. 461.12—461.15.