



TOBACCO LICENSE APPLICATION

All application materials must be received before your application will be processed.

TOBACCO LICENSE FEES:

- 1. Annual License Fee: \$250**
- 2. Background Investigation Fee: \$35/applicant**

Required Documentation

	Completed Application Form
	Completed Background Check Authorization Form (for each applicant that hold five percent [5%] or more financial interest in the business)
	Proof of Identification (valid drivers license or state issued ID, passport, military ID)
	Completed Minnesota Department of Revenue Form CT102
	Completed Certificate of Compliance for MN Worker Compensation
	Completed Tax Identification Form

This application requests information that may be classified as private or confidential under the Minnesota Data Practices Act. State law or City ordinance requires this information. The information will be used to determine your eligibility for issuance of a license, permit, or identification card. Failure to provide the information may result in a denial of the license.

DIRECTIONS: This form must be filled out completely. An incomplete application will be rejected.

1. Applicant Full Name: _____
(Must appear exactly as shown on state issued ID or passport)

2. Type of Applicant:

	Sole Proprietor
	Partnership
	Corporation
	Association or Other

3. Business Name (DBA): _____

Business Address: _____

Business Phone: _____

Business Email: _____

4. If applicant is a sole proprietor (individual), state full name, residence and business address, telephone numbers, and email address.

Residential Address: _____

Phone Number: _____ Email Address: _____

5. If applicant is a corporation, please give the name and following contact information:

Corporation Name: _____

Corporation Mailing
Address: _____

Corporation Phone: _____

**ANY FALSIFICATION OF ANSWERS TO THE PROCEEDING QUESTIONS WILL
RESULT IN DENIAL OF THE APPLICATION.**

Applicant Signature

Date



BACKGROUND AUTHORIZATION AND TENNESSEN WARNING

A BACKGROUND AUTHORIZATION AND TENNESSEN WARNING Form must be completed for each applicant and submitted together with the license application. The application background fee is non-refundable.

The City of Lino Lakes is investigating background information for approval of a request for licensing. This application requests information, which may be classified as private or confidential under the Minnesota Data Practices Act. State law or City ordinance requires this information. The information will be used to determine eligibility for issuance of the license or renewal. Failure to provide the information may result in a denial of the license.

Your background may include (but not limited to):

Criminal History, Driver's License Check, Outstanding Warrants, Fingerprinting, Photograph, Civil & Criminal Record Check, IRS Document Check, Credit Check and Interview.

Any information that you provide will be made accessible to the following persons or entities:

- A. The subject(s) of the data, which may include someone other than yourself.
- B. Individuals within the City of Lino Lakes whose work assignments reasonably require access to the information you provide.
- C. Any persons, entities or agencies authorized by state or federal law to have access to the information. These include, but are not necessarily limited to, the following:
 1. Law enforcement agencies. The information you provide may be referred to a law enforcement agency for purposes of initiating or furthering a criminal investigation. You are advised, however, that any statements you make under threat of discipline, or evidence obtained as a result of such statements, cannot be used against you in any criminal proceeding.
 2. Contracting Parties. Where a contract between the City of Lino Lakes requires that such party have access, the information you provide will be shared with that contracting party. The contracting party may not disclose the information except as authorized by state or federal law.
 3. City Attorneys. The information you provide may be shared with the City of Lino Lakes attorneys, if the information is related to a matter upon which the City of Lino Lakes has requested legal advice.
 4. Open Meetings. If it becomes reasonably necessary to discuss such information at any meeting required by law to be open to the public, the information you provide may become available to the public at such meeting.
 5. Court Order. The information you provide will be made available to any persons or entities authorized by court order to have access to the information.

6. Persons or entities who have the express written consent of the data subject, who may be someone other than you.

TENNESSEN WARNING

Data is requested from the applicant on various forms. The purpose and intended use of the requested data is to verify the applicant meets all state statute and city code provisions and, if the license or permit is approved, to verify that all required data remains current. The following data collected, created, or maintained is classified under the Minnesota Government Data Practices Act as Private data until license approval when the data becomes Public: (13.41, Subd.4).

1. Data submitted by applicants (other than names and designated addresses)
2. Orders for hearing and findings of fact
3. Conclusions of law and specification of the final disciplinary action contained in the record of the disciplinary action
4. Entire record concerning the disciplinary proceeding
5. License numbers
6. License status

The following data collected, created, or maintained is classified as Private: (13.41, Subd. 2).

1. The identity of complaints who have made reports concerning licenses or applicants which appear in inactive complaint data unless the complainant consents to the disclosure
2. The nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action
3. Inactive investigative data relating to violations of statutes or rules
4. The record of any disciplinary proceeding except as limited by Subd. 4

The following data collected, created, or maintained is classified as Confidential: (13.41, Subd.3).

1. Active investigative data relating to the investigation of complaints against any license
Under law, private data may be shared with licensing and inspection employees, approval authorities, insurance providers, law enforcement employees, contracted inspection officials, as required by court order and City officials who have a bona fide need for it.

The City of Lino Lakes may make any data classified as private or confidential accessible to an appropriate person or agency if the licensing agency determines that failure to make the data accessible is likely to create a clear and present danger to public health or safety. We ask that you complete or provide all data requested on the application form(s) unless we have noted that it is not required. Refusal to supply required information may mean that your application cannot be processed.

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION REGARDING MY RIGHTS AS A SUBJECT OF GOVERNMENT DATA.

Signed

Date

BACKGROUND CHECK AUTHORIZATION

DIRECTIONS: This form must be filled out entirely. Attach a copy of your valid ID, license, or passport.

1. True Name (exactly as on ID or passport): _____
2. Maiden, Alias, or Former Name: _____
3. Residential Address: _____

4. County in which you reside: _____
5. Date of Birth _____
6. Place of Birth _____
7. Phone Number: _____
8. Email Address: _____
9. Business Address: _____

10. Business Phone: _____
11. Driver's License/ID Number:
Have you ever had a DL in another state? YES NO If yes, state: _____
12. Marital Status Married Single Divorced

If married, provide spouse true name, place/date of birth, and maiden name

13. Address(es) at which you have lived during the preceding 10 years (begin with present address). Attach additional sheets if needed.

<i>List Street, City, State, Zip</i>	<i>Date range</i>

I authorize the Lino Lakes Public Safety Department and the Minnesota Bureau of Criminal Apprehension to disclose all criminal background information on me as permitted by law to the City of Lino Lakes for the purpose of a background check.

The expiration of this authorization shall be one year from the date of my signature.

Signature of Applicant _____ Date _____

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

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

FOR MUNICIPAL USE ONLY

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.		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>				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

Tax Identification Form – City of Lino Lakes License Applicants

License Applicant:

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

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

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

Please supply the following information and return along with your application to the City of Lino Lakes.
Do not return to the Department of Revenue.

Name of Applicant: _____

Social Security Number: _____

(For individual business owner only, not partnership, corporation, etc.)

Type of Business _____

Minnesota Tax Identification Number: _____

Federal Tax Identification Number: _____

Signed by _____ Date: _____

Print Name of Person Signing _____

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

2019 Minnesota Statutes

270C.72 Tax Clearance; Issuance of Licenses - Subdivision 4 Licensing authority; duties.

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

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
---	---------------------------	----------------------------

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 am authorized to sign on behalf of the business.

Print name

Applicant signature (required)	Title	Date
--------------------------------	-------	------

CHAPTER 602: REGULATING THE SALE, POSSESSION AND USE OF TOBACCO PRODUCTS AND TOBACCO RELATED DEVICES

Section

- 602.01 Purpose
- 602.02 Definitions and interpretations
- 602.03 License
- 602.04 Fee
- 602.05 Basis for denial of license
- 602.06 Prohibited sales
- 602.07 Vending machines
- 602.08 Self-service sales
- 602.09 Responsibility
- 602.10 Compliance checks
- 602.11 Other illegal acts
- 602.12 Exceptions and defenses
- 602.13 Violations and penalties

§ 602.01 PURPOSE.

Because the City of Lino Lakes recognizes that many people under the age of 21 purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices, and these sales, possession and use are violations of state and federal laws; and because smoking has been shown to be the cause of several serious health problems which 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 and tobacco related 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 and tobacco related devices, and to further the official public policy of the State of Minnesota 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. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.02 DEFINITIONS AND INTERPRETATIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMPLIANCE CHECKS. The system the City of Lino Lakes uses to investigate and ensure that those authorized to sell tobacco, tobacco products or tobacco related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of persons under the age of 21 as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of persons under the age of 21 who attempt to purchase tobacco, tobacco products or tobacco related 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 and tobacco related devices.

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 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.

LOOSIES. The common term used to refer to a single or individually packaged cigarette.

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.

RETAIL ESTABLISHMENT. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public.

SALE. Any transfer of goods for money, trade, barter or other consideration.

SELF SERVICE MERCHANDISING. Open displays of tobacco, tobacco products or tobacco related devices in any

manner where any person shall have access to those items without the assistance or intervention of the licensee or the licensee's employees. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product or tobacco related device between the customer or the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of tobacco between the clerk and the customer.

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; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing or smoking.

TOBACCO RELATED DEVICES. 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.

VENDING MACHINE. Any mechanical, electric or electronic or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon insertion of money, tokens or other form of payment directly into the device by the person seeking to purchase the tobacco, tobacco product or tobacco related devices.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.03 LICENSE.

(1) *License required.* No person shall sell or offer to sell any tobacco, tobacco products or tobacco related device without first having obtained a license to do so from the city.

(2) *Application.* An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made on a form provided by the city. The application is to be returned to the City of Lino Lakes at which time the application will be forwarded to the Police Department for background checks. If the application is deemed incomplete it shall be returned to the applicant with a notice of the missing data. No incomplete applications will be reviewed. 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 and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(3) *Action.* The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant.

(4) *Term.* The licensing period for licenses issued under this chapter shall be one year, commencing July 1 and ending on June 30 of the following year. New licenses may be issued throughout the licensing period however there shall be no reduction in the yearly license fee.

(5) *Revocation or suspension.* Any license issued under this chapter may be revoked or suspended as provided in the §§ 602.13 and 602.14 of this chapter.

(6) *Transfers.* All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued.

(7) *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 chapter.

(8) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(9) *Renewals.* Renewals 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.

(10) *Issuance as privilege and not a right.* 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. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.04 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 as determined in the city's adopted fee schedule.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.05 BASIS FOR DENIAL OF LICENSE.

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 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. (Note: The following is not an exclusive nor an exhaustive list.)

(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 or product related devices.

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco related 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 a license.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.06 PROHIBITED SALES.

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

(1) To any person under the age of 21 years;

(2) By means of any type of vending machine, except as may otherwise be provided in this chapter (See §602.07, Vending Machines);

(3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee and the customer;

(4) By means of loosies as defined §602.02;

(5) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products; or

(6) By any other means, to any other person, in any manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.07 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 means of a vending machine unless persons under the age of 21 years are at all times prohibited from entering the licensed establishment.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.08 SELF-SERVICE SALES.

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products or tobacco related devices by any means whereby the customer may have access to the 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 products or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area not freely accessible to the general public.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.09 RESPONSIBILITY.

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises, and the sale of the item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City of Lino Lakes from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.10 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 persons at least 17 years of age, but less than 21 years of age, to enter each licensed premises to attempt to purchase intoxicating liquor. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. No persons used in compliance checks shall attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check shall answer all questions about the person'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 compliance checks authorized by state or federal laws for educational, research, training purposes or required for enforcement of a particular state or federal law.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.11 OTHER ILLEGAL ACTS.

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

(1) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any person under the age of 21 years.

(2) *Illegal possession.* It shall be a violation of this chapter for any person under the age of 21 years to have in his or her possession any tobacco, tobacco product or tobacco related device. This division shall not apply to a person under the age of 21 years lawfully involved in a compliance check.

(3) *Illegal use.* It shall be a violation of this chapter for any person under the age of 21 years to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco related device.

(4) *Illegal procurement.* It shall be a violation of this chapter for any person under the age of 21 years to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain these items on behalf of a person under the age of 21 years. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 years to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco related device. This division shall not apply to a person under the age of 21 years lawfully involved in a compliance check.

(5) *Use of false identification.* It shall be a violation of this chapter for any person under the age of 21 years to attempt to disguise his or her true age by 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. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.12 EXCEPTIONS AND DEFENSES.

Nothing in this chapter shall prevent the providing of tobacco, tobacco products or tobacco related devices to a person under the age of 21 years as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)

§ 602.13 VIOLATIONS AND PENALTIES.

(1) *Administrative civil penalties -- individuals.* If a person who is not a licensee is found to have violated this chapter, the person shall be charged an administrative penalty as follows:

(a) *First violation.* The Council shall impose a civil fine not to exceed \$50.

(b) *Second violation within 12 months.* The Council shall impose a civil fine not to exceed \$100.

(c) *Third violation within 12 months.* The Council shall impose a civil fine not to exceed \$150.

(2) *Same -- licensee.* If a licensee or an employee of a licensee is found to have violated this chapter, the licensee shall be charged an administrative penalty as follows:

(a) *First violation.* The Council shall impose a civil fine of \$500 and suspend the license for not less than one day.

(b) *Second violation within 36 months.* The Council shall impose a civil fine of \$1,000 and suspend the license for not less than three consecutive days.

(c) *Third violation within 36 months.* The Council shall impose a civil fine of \$2,000 and suspend the license for not less than ten consecutive days.

(d) *Fourth violation within 36 months.* The Council shall revoke the license for at least one year.

(3) *Administrative penalty procedures.* Notwithstanding anything to the contrary in this section:

(a) Any of the administrative civil penalties set forth in this section that may be imposed by the Council, may in the alternative be imposed by an administrative citation.

(b) If one of the foregoing penalties is imposed by an action of the Council, no penalty shall take effect until the licensee or person has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the Council, and such notice must be in writing and must provide that a right to a hearing before the Council must be requested within ten business days of receipt of the notice or such right shall terminate.

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

(Ord. 07-99, passed 4-26-1999; Am. Ord. 06-22, passed 12-12-2022)