

ORDINANCE NO. _____

AN ORDINANCE REGULATING THE SALE, POSSESSION AND USE OF TOBACCO PRODUCTS AND RELATED DEVICES IN THE CITY OF GREEN ISLE.

The City, in the best interest of the citizens and to promote the health and safety of minor persons hereby ordains:

Section 1. License. No person shall keep for retail sale, sell at retail or otherwise dispose of any tobacco at any place in the City without first obtaining a license from the City. "Tobacco" is defined as and includes: cigarettes; cigars, cheroots; stogies; perigue; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices. The annual license fee for a retail tobacco license shall be \$_____ per year. All retail tobacco licenses shall be valid for 12 calendar months from the date that the license is issued. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request.

Section 2. Transfers or Refunds. No license issued under this ordinance may be transferred to any other person or entity. No refund of license fees shall be given by the City for any reason, once the license has been issued.

Section 3. Denial of License. The City, in its sole discretion, shall determine whether to grant a retail tobacco license to any applicant. Among other factors which the city shall consider will be any past violation of this ordinance or similar state laws by the applicant, and whether the applicant's business location and floor plan is of a type which will allow applicant to effectively control its tobacco inventory to comply with this ordinance. If the city declines to issue a retail tobacco license to an applicant, the city shall notify the applicant of its reasons for such denial by written notice, served or mailed to the applicant within 15 days after the city has made its decision. The applicant shall then have a period of 30 days following receipt of said notice in which to appeal said decision to the City Council by written notice served or mailed to the City Clerk. The City Council shall then set a time at the next regular City Council meeting following receipt of the notice of appeal for the applicant to appear and be heard by the City Council. The City Council's redetermination after any such appeal hearing shall be final.

Section 4. Sales to Minors Prohibited. No person or entity shall sell or offer to sell any tobacco to any person under 18 years of age.

Section 5. Defense. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

Section 6. Self-Service Sales. No licensee shall offer for sale tobacco which is accessible to the public without the intervention of a store employee. This includes, but is not limited to, a prohibition against selling tobacco from vending machines. This section does not apply to vending machines in facilities where persons younger than age 18 are prohibited from entering by the licensee.

Section 7. Compliance Checks. The city shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minnesota Statutes Section 609.685. Compliance checks shall utilize minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, when such items are obtained as a 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 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.

Section 8. Penalties for Licensee. If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this ordinance, the licensee shall be charged an administrative penalty of \$75.00. An administrative penalty of \$200.00 will be charged to a licensee for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250.00 will be charged to the licensee, and the licensee's authority to sell tobacco at that location will be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the City Council in the City Council Chamber, for the purpose of having the City Council determine whether there are sufficient grounds for imposition of the suspension or penalty.

Section 9. Penalties for Minor. It shall be a violation of this ordinance for any minor to use, purchase or attempt to purchase or be in possession of any tobacco, or for any minor to attempt to disguise his or her true age by use of a false form of identification in an attempt to obtain tobacco. Any minor violating this section shall perform 10 hours of community service to the City of Green Isle, the nature and scheduling of said service to be determined by the City.

Section 10. Penalties for Providers. Any person who procures or attempts to procure tobacco, for possession or use by a minor person shall be in violation of this ordinance and shall be charged an administrative fee of \$50.00. This shall include any person employed by a licensee who is found to have sold tobacco to a minor person.

Section 11. Criminal Prosecution. Any violation of this ordinance by any adult person shall also constitute a misdemeanor. Any violation of this ordinance by any minor person shall constitute a petty misdemeanor. The City may choose to treat any violation of this ordinance as either an administrative violation subject to the administrative penalties set out herein, or to prosecute the violation as a criminal act. If the City chooses to prosecute a violation of this ordinance as a criminal act then the administrative penalties noted in this ordinance shall not apply. Upon conviction of a criminal act under this ordinance, the offender shall be subject to the criminal penalties under State law set out for the appropriate level of offense.

This ordinance shall become effective immediately upon publication.

For City of Green Isle:

By John Foley
Its Mayor

By Todd Meeker
Its Clerk