



Health & Human Services Agenda Request

2A
Agenda Item #

Requested Meeting Date: May 28, 2024

Title of Item: 1st Reading of the updated Aitkin County Tobacco Ordinance

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested:	<input type="checkbox"/> Direction Requested
	<input type="checkbox"/> Approve/Deny Motion	<input checked="" type="checkbox"/> Discussion Item
	<input type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Hold Public Hearing*

Submitted by: Erin Melz	Department: H&HS
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Presenter (Name and Title): Erin Melz, Public Health Supervisor	Estimated Time Needed: 10 min
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The 1st Reading of the updated Aitkin County Tobacco Ordinance, last updated and signed in 2006. Due to the length of the ordinance, a detailed summary of the revisions will be provided.

Alternatives, Options, Effects on Others/Comments:

Recommended Action/Motion:

Financial Impact:

Is there a cost associated with this request? Yes No

What is the total cost, with tax and shipping? \$

Is this budgeted? Yes No *Please Explain:*

Today we will be holding the first reading of the updated Aitkin County Tobacco Ordinance, last updated and signed in 2006. Due to the length of the ordinance, rather than reading it verbatim, a detailed summary will be provided to you.

The title of the ordinance changed to “Aitkin County Ordinance Regulating the Sale, Procurement, and Possession of Tobacco and Related Devices,” clearly identifying the purpose of the ordinance, The description of the ordinance was condensed, simplified, and updated to include sale, procurement and possession within the County of Aitkin, Minnesota.

The recitals were updated to provide an evidentiary basis for the proposed commercial tobacco control policies, to reference state and federal laws, to further address intent and protection of youth and young adults, to demonstrate the reasoning for adopting specific provisions, and to reference sale, procurement and possession.

Section 1: Applicability and Jurisdiction

Defines the applicability and jurisdiction of the ordinance, including that the ordinance governs the licensing and regulation within Aitkin County and in any city or town located within that does not license and regulate retail tobacco and related devices.

Section 2: Definitions and Interpretations in this Ordinance

Definitions were placed in alphabetical order, some were added, some were removed, some were updated to provide clarity and/or to align with applicable statutes and one stayed unchanged.

The following definitions were added:

- Administrative fee
- Administrative penalty
- Child-resistant packaging
- Cigar
- County board
- Electronic delivery devices
- Flavored product
- Indoor area
- Licensed products
- Nicotine or Lobelia delivery product
- Smoking
- Synthetic nicotine product, and
- Youth oriented facility

The following definitions were removed:

- Individually packaged
- Licensee, and
- Minor

The following definitions were updated:

- Tobacco or tobacco products has been updated to Tobacco Product
- Tobacco-related device
- Self-Service Merchandising has been updated to Self-Service Display
- Vending Machine
- Loosies
- Retail Establishment
- Moveable place of business, and
- Compliance Checks

And the definition of “sale” remained unchanged

Section 3: License Provisions

Current provisions within this section that have been updated and clarified include: the requirement to have a license for tobacco sales, paying applicable license fees, the requirement to post and display said license, that a license cannot be issued for a moveable place of business, that a license can be suspended and revoked and that no new license shall be issued while a licensee’s previous or current license remains in a condition outside of good standing

For clarity and to align with state and/or federal law and best practices, provisions that have been added to this section include: identifying the term for which a license is valid, that a license is valid for the location for which it was issued and cannot be transferred to another person or location, that license issuance is a privilege not an absolute right and does not entitle a current license holder to automatic renewal, that no new license will be granted to any person or retail establishment location not already established that is within 500 feet of a youth-oriented facility, prohibits smoking within the indoor area of any establishment with a retail tobacco license and prohibits the distribution of samples of any licensed products free of charge, at a nominal cost or as a free donation.

The specific dollar amount for a retail tobacco license annual fee was removed from this ordinance and referred to the County’s Fee Schedule for review and consideration on an annual basis.

Section 4: Basis for Denial of License

This is an added section outlining potential reasoning and rationale for which a retail tobacco license request could be denied. Included, but not limited to, an applicant being under 21 years of age, failure to provide necessary application information, has had a license suspended or revoked within the preceding 12 months, is delinquent in or has failed to pay local, state or federal fines, fees, or taxes, has interfered with a compliance check and/or the business is moveable and not at a fixed location. This section also indicates that if a license is mistakenly issued or renewed to a person, it shall be revoked upon discovery that the person was ineligible for the license under this section.

Section 5: Prohibited Sales and Acts

For clarity and to align with state and/or federal law and best practices, this section has revisions, clarifications, and additions outlining prohibited acts and sales concerning retail licensed tobacco. Updates have been made to the minimum age for purchase, and to the restriction of sale by means of a self-service display or vending machine. Added restrictions to this section include selling liquid intended for use in an electronic delivery device in packaging that is not child-resistant, selling flavored products,

including a taste or smell other than the taste or smell of tobacco, and following federal and state requirements regarding minimum pack pricing on any licensed product.

Part B of this Section has been added to address legal age and the restriction of any person selling, giving or otherwise furnishing a licensed product to any person under the age of 21, the requirement for licensees to verify age by means of a government-issued photo ID, the requirement to provide notice of legal sales age, age verification and possible penalty, that it is a violation of ordinance for any person 21 years of age or older to purchase or procure on behalf of a person under the age of 21 and that it is a violation of this ordinance for any person to disguise or attempt to disguise their true age by the use of a false form of identification.

Part C of this section has been added to identify that it is a violation of this ordinance for any person under age 21 to have in their possession any tobacco product or related device.

Section 6: Responsibility

The updated language in this section for responsibility is clearer and does not make reference to penalties for clerks. Licensees are responsible for the actions of their employees regarding the sales of licensed products.

Section 7: Compliance Checks and Inspections

This section allows for compliance checks. Edits include the ages of individuals who may participate in compliance checks, following state law, and an update to the frequency to state "from time to time," with no specific timeframe.

Section 8: Violations

This section outlines and defines the process and timeline for determined violations. Updates include consolidation and clarification of language under (A) Notice and (B) Hearings, with no other changes in this section.

Section 9: Administrative Penalties

Part A outlines the penalties and requirements for licensees and individuals found to violate this ordinance. The fine schedule was updated to align with State law minimums and language was added to require online instructional programming for the licensee, and in cases of 2nd or 3rd violations, their staff. Upon completion of training, proof must be submitted to the Public Health Department within 10 calendar days.

Part B was added to this section and outlines penalties that may be required and or charged to an employee of a licensee who is found to violate this ordinance.

Part D was updated to align with State Law which allows for a 5-year lookback period of a first violation

Part E, Persons under Age 21 has been added to this section.

Part 1 clarifies persons under age 21 who use false identification to purchase or attempt to purchase licensed products may only be subject to non-monetary, non-criminal civil penalties, per State Law. Collaboration among legal and licensing authorities will determine the appropriate penalty.

Part 2 has been added to identify that it is a violation of this ordinance for persons under the age of 21 to have in his or her possession any tobacco or tobacco-related product or device. Penalties may include

non-monetary, non-criminal civil penalties or an administrative penalty, to be determined collaboratively by the legal and licensing authorities.

Part F has been added to clarify the timeline for payment of the penalty.

Section 10: Exemptions and Defenses

Language has been updated and clarified around use of tobacco or tobacco-related devices by any person as part of an indigenous practice or lawfully recognized religious, spiritual, or cultural ceremony.

Section 11: Terms

No changes have been made to this section.

Section 12: Effective Date:

Will be updated with the new effective date of this ordinance.