

Tobacco Control: Ordinance Number 206

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An Ordinance Further Restricting and Regulating the Retail Sale of Tobacco

THE COUNTY BOARD OF STEARNS COUNTY ORDAINS:

Section 1. STATUTORY AUTHORITY AND POLICY

1.1 Statutory Authorization

This Tobacco Control Ordinance is adopted pursuant to the authorization and policies contained in [Minnesota Statutes](#), including [Minnesota Statutes](#), chapter 461, [Minnesota Statutes](#), section 461.12 and section 461.19, [Minnesota Statutes](#), section 609.685, [Minnesota Statutes](#), section 325F.76 and section 325F.77, [Minnesota Statutes](#), section 375.51, and successor statutes, and the policy of the State of Minnesota, set forth in [Minnesota Statutes](#), section 144.391.

1.2 Policy

[Minnesota Statutes](#), section 144.391 is a legislative declaration of public policy relative to the promotion of nonsmoking in Minnesota. [Minnesota Statutes](#), chapter 461 also establishes the general law restricting and regulating the manufacture and disposition of tobacco and is operative throughout the entire state. The Legislature of Minnesota has delegated authority to municipalities, including counties, to further restrict and regulate the retail sale of tobacco within its limits so long as such controls embody the substance of the general law and do not lower the standard fixed by State law. This authority to add further regulations required by local conditions is hereby recognized by the County of Stearns.

Section 2. GENERAL PROVISIONS

2.1 Jurisdiction

This Ordinance shall apply within areas of Stearns County located outside of cities and towns which license and regulate retail tobacco sales, as provided in [Minnesota Statutes](#), section 461.12, subdivision 1.

2.2 Severability

If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

Section 3. DEFINITIONS

3.1 State Law Definitions

Unless specifically defined in Section 3.2 of this Ordinance, words or phrases used in this ordinance shall have the meaning given in [Minnesota Statutes](#), section 609.685, subdivision 1, and [Minnesota Statutes](#), section 325F.76, and successor statutes.

3.2 Other Definitions

A. Board. “Board” means the Stearns County Board of Commissioners.

B. County. “County” means the County of Stearns.

C. Division Director. “Division Director” means the Division Director, Public Health Division, Stearns County Human Services Department.

D. License. “License” means a tobacco retail sale license.

E. Licensed premises. “Licensed premises” means a compact and contiguous space specified in the approved tobacco retail sale license application.

F. Moveable place of business. “Moveable place of business” means 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.

G. Retail sale. “Retail sale” means sale for any purpose other than resale in the regular course of business.

Section 4. LICENSES

4.1 License Requirements

A. No person shall retail sell or offer to retail sell any tobacco without first having obtained a license to do so from the County.

B. All licenses issued under this Ordinance shall be valid for one calendar year from the date of issue; provided further that all licenses expire on June 30 next following the date of issuance.

C. All licenses are effective only for the licensed premises.

D. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

E. Pursuant to [Minnesota Statutes](#), section 461.15, or successor statute, no applicant for a license shall be required to pay any license fee upon furnishing a doctor's certificate showing that the applicant is blind, as defined by Laws 1937, Chapter 324.

F. Pursuant to [Minnesota Statutes](#), section 609.685, subd. 5, an Indian may furnish tobacco to an Indian under the age of 18 years without obtaining a license if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. "Indian" has the meaning given in [Minnesota Statutes](#), section 609.685, subd. 5.

Section 5. PERSONS INELIGIBLE

5.1 State Law Requirements

No license may be issued to a person made ineligible by State law.

5.2 Restrictions in Addition to State Law

A. No license may be issued to a person under 18 years of age.

B. No license may be issued to a person who has had a license issued under this Ordinance, or an ordinance of a political subdivision of this or another state in conformity with any of them, revoked within 5 years of the license application.

C. No new license may be issued to, and the County may refuse to renew the license of, a person who, within 5 years of the license application has been convicted of a felony involving the retail sale of tobacco, or a willful violation of a federal or state law or local ordinance, or a statute or ordinance from another state in conformity with any of them, governing the retail sale of tobacco.

D. No license may be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Ordinance.

Section 6. COUNTY AUTHORITY TO ISSUE LICENSES

6.1 Statutory County Authority to Issue Licenses

The statutory authority of the County to issue a license shall be as provided in State law.

Section 7. RETAIL SALES REGULATIONS

7.1 Retail Sales Regulations: State Law

Retail sales regulations shall be as provided in State law.

7.2 Further Retail Sales Regulations in Addition to State Law

A. Responsibility of Licensee

Every licensee is responsible for the conduct on the licensed premises and any sale of tobacco by any employee is the act of the licensee for the purposes of all provisions of this Ordinance except Section 10.1.

Section 8. INSPECTIONS

8.1 State Law Requirement

The State law compliance check requirement shall be as provided in State law, and shall be conducted by the Stearns County Sheriff.

8.2 Further Inspection Requirement in Addition to State Law

Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the County at all reasonable hours to enter in and on the licensed premises to inspect the premises and examine books, papers, and records for the purpose of determining compliance with the provisions of State law and this Ordinance.

Section 9. APPLICATION FOR LICENSES

9.1 Action

A. Applications for licenses shall be completed as required and submitted to the Division Director.

B. Upon receipt of a completed application for license, the Division Director shall forward the application to the Stearns County Administrator for action at the next regularly scheduled meeting of the Board.

C. If the application for license is incomplete, the Division Director shall return the application to the applicant with notice of the information necessary to make the application complete.

D. The Board 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 applicant it deems necessary. If the Board approves the license, the Division Director shall issue the license to the applicant. If the Board denies the license, the Division Director shall give written notice of the denial to the applicant together with notice of the applicant's right to appeal the decision.

9.2 Application Requirements

A. Information Required

An application for a license must include information required by the County, and such information must be submitted on a form prescribed by the County as established by Resolution of the Board.

B. False Statements in Application

Any material false statement in such application, or any knowing omission of any material information requested or required may, upon discovery of such false statement or knowing omission, result in denial of the license or renewal, or, if already issued, revocation of the license. Such denial or revocation shall be in addition to any other remedy or action authorized by State law or by this Ordinance.

C. Fees

(1) At the time of the initial application for a license, the applicant must pay an application review fee in an amount as established by Resolution of the Board.

(2) When the Board requires a comprehensive background investigation, the applicant must pay an application investigation fee in an amount established by Resolution of the Board.

D. Late Renewal Application Penalty

A renewal application should be submitted at least 45 days prior to the expiration of the license. A penalty of 50% of the annual license fee, not to exceed \$100.00, shall be imposed on and collected from each applicant who files an application for renewal after the commencement of the license year.

Section 10. ENFORCEMENT

10.1 Any person who violates any of the provisions of this Ordinance, or who fails or refuses to comply with the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of \$700 or by imprisonment for 90 days, or both.

10.2 In the event of a violation or threatened violation of State law or this Ordinance, the County Administrator, in addition to other remedies, may initiate appropriate civil action or proceedings to prevent, restrain, correct, or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.

10.3 License Suspension; Administrative Penalty

A. Statutory Authorization

The statutory authority and procedure for the County to suspend a license or to impose an administrative penalty shall be as provided in State law.

B. Additional Reasons for Suspension or Administrative Penalty

- (1) The licensee knowingly allowed or permitted illegal acts unrelated to the retail sale of tobacco on the licensed premises.
- (2) The licensee had knowledge of illegal acts unrelated to the sale of tobacco on the licensed premises, but failed to report the same to law enforcement authorities.
- (3) The licensee had knowledge of illegal acts unrelated to the sale of tobacco on the licensed premises, but failed or refused to cooperate fully with investigating law enforcement authorities.
- (4) The activities of the licensee or acts allowed or permitted by the licensee on the licensed premises create a serious danger to public health, safety, or welfare.

C. The Administrative Hearing Officer, as established by Resolution of the Board, shall be the person authorized by the Board to conduct the hearing provided for in State law. Further administrative hearing procedures shall be established by Resolution of the County Board.

Section 11. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed by the Stearns County Board of Commissioners this 15th day of June 1999.

APPROVED:

Rose Arnold
Chair
Stearns County Board of Commissioners

ATTEST:

Randy R Schreifels
Stearns County Auditor-Treasurer
Clerk
Stearns County Board of Commissioner