

## Tobacco Regulations

ORDINANCE NO. 2022-01

### AN ORDINANCE AMENDING ORONOCO CITY CODE, CHAPTER 116 – TOBACCO REGULATIONS

THE CITY OF ORONOCO DOES ORDAIN:

SECTION 1. That Oronoco City Code, Chapter 116 – Tobacco Regulations, be amended as follows:

#### CHAPTER 116: TOBACCO REGULATIONS

Section

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### **GENERAL PROVISIONS**

#### **§ 116.01 PURPOSE.**

Because the city recognizes that many persons under the age of ~~18~~ 21 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and the sales, possession, and use are violations of both state and federal laws; and because smoking has been shown to be the cause of several serious 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, 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 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.

(Prior Code, § 506.1)

#### **§ 116.02 DEFINITIONS AND INTERPRETATIONS.**

(A) 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 *Ashall@* means mandatory and the term *Amay@* means permissive.

(B) For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

#### **COMPLIANCE CHECKS.**

(a) The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the

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requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors as authorized by this chapter.

(b) **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco-related devices for educational, research, and training purposes as authorized by state and federal laws. (c) **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 section shall not be considered **INDIVIDUALLY PACKAGED**.

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

**MINOR.** Any natural person who has not yet reached the age of ~~18~~ 21 years.

**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 storefront 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. **RETAIL ESTABLISHMENTS** shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

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

**SELF-SERVICE MERCHANDISING.**

(a) Open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco-related devices without the assistance or intervention of the licensee or the licensee's employee.

(b) The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee.

(c) **SELF-SERVICE MERCHANDISING** shall not include vending machines.

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***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; periques; 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 such 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 the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.  
(Prior Code, § 506.2)

### § 116.03 FEES.

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 set by the City Council.  
(Prior Code, § 506.4) Penalty, see § 10.99

### § 116.04 BASIS FOR DENIAL OF LICENSE.

(A) 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.

(B) 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:

(1) The applicant is under the age of ~~18~~ 21 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 tobacco-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; and

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(5) The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding the license.  
(Prior Code, § 506.5)

### § 116.05 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:(A) To any person under the age of ~~18~~ 21 years;

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter;

(C) 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 premises 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, except cartons and multi-pack units, may be offered and sold through open displays accessible to the public;

(D) By means of loosies as defined in § 116.02;

(E) Containing opium, morphine, jimson weed, belladonna, strychnine, 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; and

(F) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.  
(Prior Code, § 506.6) Penalty, see § 10.99

### § 116.06 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 the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.  
(Prior Code, § 506.7) Penalty, see § 10.99

### § 116.07 SELF-SERVICE SALES.

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(A) 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 product, or the tobacco-related device between the licensee or his or her Clerk/Treasurer and the customer, except cartons and multi-pack units may be offered and sold through open displays accessible to the public.

(B) All tobacco, tobacco products, and tobacco-related 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, except cartons and multi-pack units may be offered and sold through open displays accessible to the public.

(Prior Code, § 506.8) Penalty, see § 10.99

### **§ 116.08 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 from also subjecting the Clerk/Treasurer to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

(Prior Code, § 506.9) Penalty, see § 10.99

## ***LICENSES***

### **§ 116.20 GENERAL.**

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.

(Prior Code, § 506.3) Penalty, see § 10.99

### **§ 116.21 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 shall contain the applicant's full name, 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 Clerk/Treasurer shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk/Treasurer 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 it complete.

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(Prior Code, § 506.3)

### **§ 116.22 ACTION.**

The Council may approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete an investigation of the application or the applicant it deems necessary.

(Prior Code, § 506.3)

### **§ 116.23 TERM.**

All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

(Prior Code, § 506.3)

### **§ 116.24 REVOCATION OR SUSPENSION.**

Any license issued under this chapter may be revoked or suspended.

(Prior Code, § 506.3)

### **§ 116.25 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. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

(Prior Code, § 506.3) Penalty, see § 10.99

### **§ 116.26 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.

(Prior Code, § 506.3) Penalty, see § 10.99

### **§ 116.27 DISPLAY.**

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

(Prior Code, § 506.3)

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#### § 116.28 RENEWAL.

The renewal of a license issued under this chapter 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.

(Prior Code, § 506.3)

Passed and adopted by the City Council of the City of Oronoco, Minnesota this 15<sup>th</sup> day of January, 2022.

Approved:

Ryan Eickhout

By Its Mayor

Attest:

Jeremy R. Johnson

By Its Clerk-Treasurer