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ORDINANCE NO. 2019-003

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**CITY OF ARDEN HILLS
RAMSEY COUNTY, MINNESOTA**

**AN ORDINANCE AMENDING CHAPTER 3, LICENSE
AND REGULATIONS, SECTION 350, TOBACCO
PRODUCTS OF THE ARDEN HILLS CITY CODE**

THE CITY COUNCIL OF THE CITY OF ARDEN HILLS, MINNESOTA, ORDAINS:

SECTION 1. Chapter 3 – Licenses and Regulations, Section 350 – Tobacco Products, is hereby amended by deleting ~~striketrough~~ language and adding the underlined language as follows:

**Chapter 3 – License and Regulations
Section 350 – Tobacco Products**

350.01 Purpose and Intent.

Because the City recognizes that:

1. Tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance is intended to regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, and to protect youth and young adults against the serious effects associated with use and initiation.
2. The use of tobacco products has devastating health and economic consequences. Tobacco use is the foremost preventable cause of premature death in America. It causes half a million deaths annually and has been responsible for 20.8 million premature deaths in the U.S. over the past 50 years since the first Surgeon General’s report on smoking in 1964. This leads to more than \$300 billion in health care and lost worker productivity costs each year. In Minnesota, smoking was responsible for \$3.19 billion in excess medical expenditures and the deaths of 6,312 individuals in 2014.
3. Youth and young people are particularly susceptible to the addictive properties of tobacco products, and are particularly likely to become lifelong users. An estimated 5.6 million youth aged 0 to 17 are projected to die prematurely from a tobacco-related illness if prevalence rates do not change. National data show that about 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use. Electronic delivery device use among youth has recently tripled. Young minds are particularly susceptible to the addictive properties of nicotine. As a result, approximately 3 out of 4 teen smokers end up smoking into adulthood.

4. Public health research and tobacco industry documents and marketing reveal that tobacco companies have used fruit, candy, and alcohol flavors as a way to target youth and young adults. The presence of flavors such as menthol in tobacco products can make it more difficult for youth, young adults, and adult tobacco users to quit.

This ordinance is intended to regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to protect the public, especially youth and young adults, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391, as it may be amended from time to time.

In making these findings, the City Council accepts the conclusions and recommendations of the U.S. Surgeon General reports, “E-cigarette Use Among Youth and Young Adults” (2016), “The Health Consequences of Smoking—50 Years of Progress” (2014) and “Preventing Tobacco Use Among Youth and Young Adults” (2012); a BlueCross BlueShield of Minnesota report, “Health Care Costs and Smoking in Minnesota: The Bottom Line” (2017); the Institute of Medicine in their study, “Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products” (2015); the Centers for Disease Control and Prevention in their studies, “Tobacco Use Among Middle and High School Students—United States, 2011– 2015,” and “Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997”; and of the following scholars in these scientific journals: Xin Xu et al., Annual Healthcare Spending Attributable to Cigarette Smoking: An Update, Am. J. Prev. Med. 48(3): 326-33 (Mar. 2015); Giovino GA, “Epidemiology of Tobacco Use in the United States,” Oncogene (2002) 21, 7326-40; Khuder SA, et al., “Age at Smoking Onset and its Effect on Smoking Cessation,” Addictive Behavior 24(5):673-7, September-October 1999; D’Avanzo B, et al., “Age at Starting Smoking and Number of Cigarettes Smoked,” Annals of Epidemiology 4(6):455-59, November 1994; Chen, J & Millar, WJ, “Age of Smoking Initiation: Implications for Quitting,” Health Reports 9(4):39-46, Spring 1998; and Everett SA, et al., “Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students,” Preventive Medicine, 29(5):327-33, November 1999; copies of which are adopted by reference.

~~Because the City recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices, and that such sales, possession and use are violations of both state and federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of eighteen (18) years, and that those persons who reach the age of eighteen (18) years without having started smoking are significantly less likely to begin smoking; 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 ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobeliadelivery 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, tobacco-related devices, and nicotine or lobelia delivery 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.~~

350.02 Definitions.

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 section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

- Child-Resistant Packaging. ~~Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.~~

- Compliance Checks. ~~A system used to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices licensed products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors persons under the age of 21 as authorized by this ordinance. Compliance checks shall also mean the use of persons under the age of 21 minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices licensed products 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 licensed productstobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices.~~

- Electronic Delivery Device. ~~Any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.~~

~~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.~~

- Flavored Product: ~~Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic~~

beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco or tobacco product, tobacco-related device, electronic delivery device, and nicotine or lobelia delivery device, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product is a flavored product.

- Indoor Area. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A standard window screen (0.011 gauge with an 18 by 16 mesh count) is not considered a wall.

- Licensed Products. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

- Loosies. The common term used to refer to a single or individually packaged cigarette or any other ~~tobacco-licensed~~ product that has been removed from its intended retail packaging and offered for salesold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than \$2.00 per cigar.

~~Minor. Any natural person who has not yet reached the age of eighteen (18) 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, store front or other permanent type of structure authorized for sales transactions.

- Nicotine or Lobelia Delivery Devices. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

- Retail Establishment. Any place of business where ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~licensed products are available for sale to the general public. The phrase shall include, but not be limited to, grocery stores, convenience stores, restaurants, drug stores and on-sale or off-sale liquor establishments.

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

- Self-Service Merchandising. Open display of licensed products ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~ in any manner where any person shall have access to the licensed products~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the licensed products ~~tobacco, tobacco product, tobacco-related devices, or nicotine or lobelia delivery device~~ between the customer and the licensee or employee. Self-Service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

- Smoking. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product, whether natural or synthetic, containing, made, or derived from nicotine, tobacco, marijuana, or other plant, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device. ~~Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.~~

- Tobacco or Tobacco Products. Tobacco and tobacco products includes ~~cigarettes and~~ any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigarettes; cigars; cheroots; stogies; perique; 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. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

- Tobacco Related Devices. Tobacco-related devices includes any ~~tobacco product as well as a~~ pipe, rolling papers, ashtray, or other device intentionally designed or intended to be used ~~in a manner which enables the chewing, sniffing or smoking of tobacco or with~~ tobacco products. Tobacco-related devices shall include components of tobacco-related devices, which may be marketed or sold separately.

- Vending Machine. Any mechanical, electric or electronic, or other type of device which dispenses ~~tobacco, tobacco products, or tobacco related devices~~ licensed products upon the insertion of money, tokens or other forms of payment directly into the machine by the person seeking to purchase the ~~tobacco, tobacco product, or tobacco related device~~ licensed product.

350.03 License.

No person shall sell or offer to sell any ~~tobacco, tobacco products, tobacco related device, or nicotine or lobelia delivery device~~ licensed products at a retail establishment without first having obtained a license to do so from the City. License applications shall be submitted to the City Administrator/Clerk together with the license fees determined from time to time by the City Council. A license shall be issued for the specific premises identified in the application. (amended 3/26/07)

Subd. 1 Application.

A. An application for a license to sell ~~a licensed product tobacco, tobacco products, tobacco related devices, or nicotine or lobelia delivery devices~~ at a retail establishment shall be made on a form provided by the City. 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.

B. Upon receipt of a completed application and any investigation required thereby, the City Administrator shall forward the application to the City Council for action at a regularly scheduled Council meeting. If the City Administrator determines that an application is incomplete, the application shall be returned to the applicant with notice of the information required to complete the application.

Subd. 2 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 Administrator/Clerk shall issue the license to the applicant. If the City Council denies the license, a notice of the denial shall be given to the applicant containing the City Council's reason for denial.

Subd. 3 Terms. All licenses issued under this section shall be valid until December 31 of the year the license is issued.

Subd. 4 Revocation and Suspension. Any license issued under this section may be revoked or suspended as provided in Subsection 350.11 Administrative Fine, Suspension or Revocation.

Subd. 5 Transfers. All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person or entity to whom the license was issued. No transfer of any license to another location or person or entity shall be valid without the prior approval of the City Council.

Subd. 6 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 section.

Subd. 7 Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 8 Renewals. The renewal 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 thirty (30) days, but no more than sixty (60) days before the expiration of the current license.

Subd. 9 Issuance- is a privilege and not a right. The issuance of a license issued under this section 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.

Subd. 10 Smoking. Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco and tobacco-related products is prohibited.

Subd. 11 Samples Prohibited. No person shall distribute samples of any licensed product free of charge or at nominal cost, except that single serving samples of tobacco may be distributed in tobacco stores.

Subd. 12 Minimum Clerk Age. Individuals employed by a person licensed under this ordinance must be at least 18 years of age to sell licensed products.

350.04 Fees.

No license shall be issued or renewed under this section until the appropriate license fee is paid in full. The annual license fee shall be established by Ordinance as adopted by the Council.

~~350.05 Grounds for denying the issuance or renewal of a license under this chapter include but are not limited to the following:~~ Grounds for denying the issuance or renewal of a license.

Grounds for denying the issuance or renewal of a license under this chapter include but are not limited to the following:

Subd. 1 The applicant is under the age of ~~eighteen-twenty-one (1821)~~ years;

Subd. 2 The applicant has been convicted within the past five (5) years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to licensed productstobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices;

Subd. 3 The applicant has had a license to sell licensed productstobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices revoked within the preceding twelve (12) months of the date of the application;

Subd. 4 The applicant fails to provide any information required on the application, or provides false or misleading information; and/or

Subd. 5 The applicant is prohibited by federal, state or other local law, ordinance, or other regulation from holding a license. 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 chapter.

350.06 Prohibited Sales.

It shall be a violation of this section for any person- to sell or offer to sell any licensed products as followstobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device:

Subd. 1 No person shall sell any licensed product to any person under the age of 21.

A. Age Verification. Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

B. Signage. Notice of the legal sales age and age verification requirement must be posted at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a

purchase.

~~To any person under the age of eighteen (18) years;~~

Subd. 2 ~~-No person shall sell or offer for sale any flavored products. This prohibition does not apply to a retail establishment that:~~

~~Prohibits persons under 21 from entering at all times; and~~

~~Derives at least 90 percent of their revenues from the sale of licensed products; and~~

~~Adheres to all of the following building or structural criteria:~~

~~Shares no wall with and has no part of their structure adjoined to any other business or retailer unless the wall is permanent, completely opaque^[UM1], and without doors, windows, and pass-throughs to the other business or retailer;~~

~~Shares no walls with and has no part of their structure directly adjoined to another licensed tobacco retailer; and~~

~~Is only accessible by the public through an exterior door.~~

~~Any retail establishment that sells flavored products must provide upon request financial records that document annual sales and blueprints of the licensed retail establishment that document the structural layout of the licensed establishment.^[CR2]~~

Subd. 3 By means of any type of vending machine.;

Subd. 43 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 licensed product tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the licensed product tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the licensee, or the licensee's employee, and the customer.;

Subd. 54 By means of "loosies" as defined in 350.02 Definitions.;

Subd. 65 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.;

Subd. 7 No person shall sell or offer for sale Any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging use.

Subd. 86- By any 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.

350.07 Self-Service Sales.

It shall be unlawful for a licensee under this chapter to allow the sale of licensed products ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~ by any means whereby the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby it is not a physical exchange of the licensed product ~~tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device~~ between the licensee or his or her clerk and the customer. All licensed products ~~tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery 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. Any retailer selling licensed products ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~ at the time this section is adopted shall comply with this section within 90 days following the effective date of this section. This section shall not apply to any licensee whose total annual sales volume of ~~tobacco, tobacco products, tobacco-related devices~~ licensed products is 90% or more.

350.08 Responsibility.

All licensees under this section shall be responsible for the actions of their employees in regard to the sale of licensed products ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~ on the licensed premises, and the sale of an 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 to whatever penalties are appropriate under this section, state or federal law, or other applicable law or regulation.

350.09 Compliance Checks and Inspections.

All licensed premises shall be open to inspections by the City police or other authorized City official during regular business hours. From time to time, but at least ~~twice~~ once per year, the City shall conduct compliance checks by engaging ~~, with the written consent of their parents or guardians, minors~~ persons over the age of 15, but less than ~~18-21~~ years to enter the licensed premise to attempt to purchase ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices~~ licensed products. Prior written consent of a minor's parent or guardian is required for any person under the age of 18 who participates in a compliance check. Persons ~~Minor~~ used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. ~~Minors~~ Persons used for compliance checks shall not be guilty of unlawful possession of licensed products ~~tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices when those items are obtained as part of a compliance check.~~ No ~~minor persons under age 21~~ used in compliance checks shall attempt to use a false identification misrepresenting the person ~~minor~~'s age, and all ~~minors persons under the age of 21~~ lawfully engaged in a compliance check shall answer all questions about the person ~~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. (amended 3/26/07)

350.10 Other Illegal Acts.

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

Subd. 1 ~~Illegal Sales.~~ It shall be a violation of this section for any person to sell or otherwise provide any ~~tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device~~licensed product to any ~~minor~~person under the age of 21.

~~Subd. 2 **Illegal Possession.** It shall be a violation of this section for any minor to have in his or her possession any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.~~

~~Subd. 3 **Illegal Use.** It shall be a violation of this section for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device~~

~~Subd. 4 **Illegal Procurement.** It shall be a violation of this section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device, and it~~ shall be a violation of this section for any person, aged 21 or older, to purchase or otherwise obtain these itemslicensed products on behalf of a ~~minor~~person under the age of 21. It shall further be a violation for any person, aged 21 or older, to coerce or attempt to coerce a minor-person under age 21 to illegally purchase or otherwise obtain or use any ~~tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device~~licensed products. ~~This subdivision shall not apply to minors persons under age 21 lawfully engaged in a compliance check.~~

Subd. ~~5~~3 **Use of False Identification.** It shall be a violation of this section for any person ~~minor~~ to attempt to disguise his or her true age by the 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.

350.11 Administrative Fine, Suspension or Revocation.

Any violation of the City's regulations relating to the issuance of Tobacco Products License or of any conditions/ restrictions attached to the issuance of such license shall be cause for the imposition of an administrative fine, the suspension of the license, or the revocation of the license. A licensee whose license has been revoked shall not be eligible for another Tobacco Product License for one year from the date of license revocation.

If the violation relates to the sale of ~~tobacco-licensed~~ products to ~~minors~~persons under the age of 21 by licensee or licensee's employees, the following administrative fines, suspensions, or revocations shall be imposed by the City: (amended 3/26/07)

Subd. 1 The first such violation shall subject the licensee to the payment of an administrative fine of ~~\$405~~150;

Subd. 2 The second violation within -24 months shall subject the licensee to the payment of an administrative fine of ~~\$525~~600;

Subd. 3 The third violation within 24 months shall subject licensee, at licensee's option, to the payment of an administrative fine of \$1,050 and a seven (7) business day suspension or a thirty day suspension of the license and an administrative fine of \$250;

Subd. 4 The fourth violation within 24 months shall subject licensee to a revocation of the license for a one-year period.

The imposition of an administrative fine and suspension of a license or to a license revocation pursuant to this section shall be preceded by a hearing before the City Council, unless the license holder elects to waive its right to a public hearing. Licensees, whose licenses have been revoked, shall not be eligible for another Tobacco Product License for one year from the date of license revocation.

350.12 Hearing.

The imposition of an administrative fine and/or a suspension of license, unless the suspension is requested by licensee, shall be preceded by a hearing before the City Council.

350.13 Exceptions and Defenses.

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

350.14 License Requirements.

A license shall comply with all applicable regulations of the State of Minnesota relating to the sale or dispensing of ~~tobacco~~ ~~licensed~~ products. If there is a conflict between the regulations of the State and regulations of the City, the more restrictive regulations shall control. (amended 3/26/07)

350.15 Severability Clause.

If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision or application. Each invalid provision or application of this ordinance is severable.

SECTION 2. This Ordinance shall become effective immediately upon its passage and publication according to law.

PASSED and ADOPTED this ____ day of _____, 201__, by the City Council of the City of Arden Hills, Minnesota.

CITY OF ARDEN HILLS

By _____
David Grant, Mayor

ATTEST:

Julie Hanson, City Clerk

Published in the _____ on _____, 2018.