

11. Describe premises to be licensed (type of business-convenience, bar, grocery store, etc.):

12. Is 90% of sales revenue derived from tobacco products? Yes No

13. Number of months per year establishment will be open _____

14. Name of manager _____

15. Has the applicant, person managing the business, or any person associated in the business ever been convicted of any crime, misdemeanor, or violation of any city, state, or federal law involving activities licensed under this article? Yes No

If yes, state the nature of the offense(s) and the punishment or penalty assessed therefore.
Attach additional sheets if necessary. _____

16. List other localities where the applicant has had or currently has a tobacco license: _____

17. Has the applicant/officer/partner ever been denied a license to sell tobacco or tobacco products? Yes No

If yes, give date and details _____

18. Has the applicant/office/partner had a license to sell tobacco or tobacco products revoked within the preceding three years? Yes No

If yes, give date and details _____

19. Are any of the following taxes for the licensed premises unpaid or delinquent?
State Sales Tax Yes No State Withholding Taxes Yes No
Real Estate Taxes Yes No City Utility Bills Yes No
Special Assessments Yes No

If yes, indicate the years and amounts that are unpaid or delinquent.

20. Is tobacco sold and/or stored in a vending machine? Yes No

If yes, answer the following questions:

Explain in detail; location of vending machine _____

Is the vending machine accessible to the public? Yes No

How is the tobacco product purchased from the vending machine?

I certify that I have read the above questions and the answers are true and correct to the best of my knowledge.

Applicant Signature

Date

OFFICE USE ONLY

Fee paid: \$ _____

Date application complete: _____

Tax check: _____ Utility Check: _____

COMPLIANCE CHECK REPORT

To be completed by the Police Department

Number of compliance checks in the past 5 years _____

Number of sales to underage youth _____

Any administrative penalties levied against applicant? Yes No

Police Chief

Date

This form must be completed by all officers, partners, and managers.

**CITY OF ELK RIVER
BACKGROUND INVESTIGATION CONSENT RELEASE
INFORMATION TO BE USED FOR BUSINESS LICENSE PROCESSING**

As a license applicant, I hereby give my consent for a personal background investigation, to include a criminal history check, to be used in the determination of whether my application is to be approved. The results of such investigation shall be made public pursuant to appropriate City Council approval or denial of the license application. I understand that I am under no legal obligation to consent to such investigation, but that if I refuse to so consent, my application cannot be processed.

I release the City of Elk River and the Elk River Police Department, and any of its agents or employees, from any and all liability for its receipt and use of information and records received pursuant to this consent. I further acknowledge that I have carefully read this release, fully understand its terms and legal significance, and execute it voluntarily.

Business Name: _____ **Type of License Applied for:** _____

Applicant: _____
(First Name) (Full Middle Name) (Last Name)

Address: _____
(Address) (City) (State) (Zip)

Home Phone: () _____ **Business Phone:** () _____

Date of Birth: _____ **Place of Birth:** _____
(City) (State)

Drivers License or State ID#: _____ **State Issued:** _____

A copy of the driver's license or state ID must be attached (front and back)

Physical:
Sex _____ **Race** _____ **Ht** _____ **Wgt** _____ **Eyes** _____ **Hair** _____

List All Aliases/Previous Last Names: _____

List Complete Addresses of Any Prior Residence(s) in the Last 5 Years: *(attach additional sheets if necessary)*

Have you ever been convicted of a felony, gross misdemeanor, or misdemeanor?
 Yes No If yes, state jurisdiction, type of violation, and disposition: _____

Applicant Signature: _____ **Date:** _____

These statements are true, correct, and are made with the knowledge that this information may be made public. False disclosures are subject to perjury proceedings and forfeiture of the license application.

OFFICE USE ONLY
Background Check/Investigation: Approved Denied
Comments: _____
Police Signature: _____ Date: _____

This form must be completed by all officers, partners, and managers.



**TENNESSEN WARNING
APPLICATION FOR BUSINESS LICENSE**

In connection with your request for a license, the City of Elk River has asked that you provide information about yourself, which is classified as either *private* or *confidential* by the Minnesota Government Data Practices Act (M.S.A. 13.04). Accordingly, the City is required to inform you of the following:

1. The private or confidential information requested includes, but may not necessarily be limited to, the following: *Your social security number or Minnesota business identification number.*
2. The purpose and intended use of the information requested is: *To comply with Minnesota Statutes, Section 270.72.*
3. You are required to supply the requested information.
4. The known consequences of supplying the requested information is as follows: *Loss or denial of the requested license if you owe the State of Minnesota delinquent taxes, penalties or interest.*
5. The known consequences of refusing to supply the requested information is: *Your request for a license cannot be processed.*
6. The following persons and entities are authorized by law to receive the information if provided: *State of Minnesota - Department of Revenue and other government agencies as provided by law.*

The undersigned, by signing this notice, acknowledges that he/she has read and understands the contents of this notice.

Date

Signature of Applicant

State of Minnesota License Applicant Information

Under Minnesota law (M.S. 270C.72, subd. 4), the agency issuing you this license is required to provide to the Minnesota Commissioner of Revenue your **Minnesota business tax identification number** and the **Social Security number of each license applicant (person signing the application)**.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, we must advise you that:

- This information may be used to deny the issuance, renewal or transfer of your license if you owe the Minnesota Department of Revenue delinquent taxes, penalties, or interest;
- The licensing agency will supply it only to the Minnesota Department of Revenue. However, under the Federal Exchange of Information Act, the Department of Revenue is allowed to supply this information to the Internal Revenue Service;
- Failing to supply this information may jeopardize or delay the issuance of your license or processing your renewal application.

Please fill in the following information and return this form along with your application to the agency issuing the license. Do **not** return this form to the Department of Revenue.

(Please print or type)

TYPE OF LICENSE BEING APPLIED FOR OR RENEWED: _____

LICENSING AUTHORITY: _____ **City of Elk River** _____

Personal Information (required):

Applicant's last name First name and initial Social Security number

Applicant's address City State Zip Code

Business Information (if applicable):

Business name

Business address City State Zip Code

Minnesota tax identification number: _____

If a Minnesota tax identification number is not required, please explain on the reverse side of this form.

Federal tax identification number: _____

Signature
SP:C1 Form

Title

Date

Certificate of Compliance Minnesota Workers' Compensation Law

PRINT IN INK OR TYPE.

Minnesota Statutes, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in any activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Chapter 176. The required workers' compensation insurance information is the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure. If the required information is not provided or is falsely stated, it shall result in a \$2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry.

A valid workers' compensation policy must be kept in effect at all times by employers as required by law.

BUSINESS NAME (Individual name only if no company name used)	LICENSE OR PERMIT NO (if applicable)		
DBA (doing business as name) (if applicable)			
BUSINESS ADDRESS (PO Box must include street address)	CITY	STATE	ZIPCODE

YOUR LICENSE OR CERTIFICATE WILL NOT BE ISSUED WITHOUT THE FOLLOWING INFORMATION. You must complete number 1, 2, or 3 below.

NUMBER 1 COMPLETE THIS PORTION IF YOU ARE INSURED:

INSURANCE COMPANY NAME (not the insurance agent)		
WORKERS' COMPENSATION INSURANCE POLICY NO.	EFFECTIVE DATE	EXPIRATION DATE

NUMBER 2 COMPLETE THIS PORTION IF SELF-INSURED:

I have attached a copy of the permit to self-insure.

NUMBER 3 COMPLETE THIS PORTION IF EXEMPT:

I am not required to have workers' compensation insurance coverage because:

- I have no employees
- I have employees but they are not covered by the workers' compensation law. (See Minn. Stat. § 176.041 for a list of excluded employees.) Explain why your employees are not covered: _____
- Other: _____

ALL APPLICANTS COMPLETE THIS PORTION:

I certify that the information provided on this form is accurate and complete. If I am signing on behalf of a business, I certify that I am authorized to sign on behalf of the business.

APPLICANT SIGNATURE (mandatory)	TITLE	DATE
---------------------------------	-------	------

NOTE: if your Workers' Compensation policy is cancelled within the license or permit period, you must notify the agency who issued the license or permit by resubmitting this form.
This material can be made available in different forms, such as large print, Braille or on a tape. To request, call 1-800-342-5354 (DIAL-DLI) Voice or TDD (651) 297-4198.

Number 1, 2, or 3 MUST be completed



License Application to Make Retail Sales of Cigarette and Other Tobacco Products

To be completed by applicant when applying for a license with a city or county.

Print or type	Applicant's Minnesota tax ID number			← The Minnesota tax ID must be issued in the same legal name of the licensee below.	<i>FOR MUNICIPAL USE ONLY</i>		
					License number		
				Period covered			
				Date of issuance			
	Cigarettes/tobacco products will be sold (a separate license is required for each location or vending machine):						
	<input type="checkbox"/> Over counter		<input type="checkbox"/> Through vending machine		<input type="checkbox"/> Both		
	Licensee's legal name				Federal employer ID number (FEIN)		
	Business trade name (doing business as)				Daytime phone		
Complete address of business location (permit location)			County	Other phone number			
City	State	Zip code	Fax number				
Mailing address (if different than business address)		City	State	Zip code	Email address		

Business Information	Type of legal organization (check one):					
	<input type="checkbox"/> Sole proprietor	<input type="checkbox"/> Minnesota corporation: Enter date of incorporation _____				
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Out-of-state corporation: State of incorporation _____				
	<input type="checkbox"/> Other (describe) _____	Are you registered to do business in Minnesota?				<input type="checkbox"/> Yes <input type="checkbox"/> No
	Corporate officers or partners (attach a list if necessary)					
	Name	Title				
Address	City	State	Zip code			
Name	Title					
Address	City	State	Zip code			

Statement of understanding	As a licensed tobacco products or cigarette retailer, I understand that:				
	1. I can purchase cigarettes only from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue.				
	2. I must obtain a tobacco products distributor license if I purchase untaxed tobacco products from an out-of-state company.				
	3. I may not sell cigarettes affixed with Minnesota Native American stamps unless my retail business is located on a reservation that has a tax agreement with the State of Minnesota.				
	4. I may not purchase from or exchange cigarettes or tobacco products with another retailer.				
	5. I must keep complete and legible cigarette and tobacco products invoices on the licensed premises, or make invoices available within one hour of request, for at least one year after the date of the purchase.				
	6. I know that the Minnesota Department of Revenue and/or law enforcement may conduct cigarette and tobacco inspections of the premises, including inspections of inventory, invoices and licenses, and I understand that a refusal to allow an inspection is grounds for revocation of my license.				
	7. I know that failure to comply with all requirements can result in criminal penalties, including the loss of cigarettes and tobacco products.				

Sign here	Licensee signature	Title	Print name	Date	Daytime phone
	Licensing agent's signature	Title	Print name	Date	Daytime phone

License applicant: Submit this form to the licensing authority along with the license application.
Licensing authority: Mail or fax a copy of approved form to:
 Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331. Fax: 651-297-1939
 Phone: 651-297-1882. TTY: Call 711 for Minnesota Relay.



TOBACCO ORDINANCE

Please
retain for your records

CHAPTER 26, ARTICLE II. TOBACCO

DIVISION I. GENERALLY

Sec. 26-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Compliance checks

means 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 requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. 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. 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

means 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 article shall not be considered individually packaged.

Loosies

is the common term used to refer to a single or individually packaged cigarette.

Minor

means any natural person who has not yet reached the age of 18 years.

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 storefront or other permanent type of structure authorized for sales transactions.

Retail establishment

means 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

means any transfer of goods for money, trade, barter, or other consideration.

Self-service merchandising

means 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. 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. Self-service merchandising shall not include vending machines.

Tobacco and tobacco product

means any substance or item containing tobacco leaf, including but not limited to cigarettes; cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff; snuff flowers; cavendish; plug and twist tobaccos; 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 a manner as to be suitable for smoking, chewing, sniffing, smoking in a pipe or other tobacco-related devices.

Tobacco products shop

A place or business that derives more than 90 percent of its gross revenue from the sale of tobacco and tobacco products or tobacco-related devices and in which the sale of other products is merely incidental.

Tobacco-related device

means any tobacco products 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

means 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.

Sec. 26-32. Purpose of article.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and that such sales, possession, and use are violations of both state and federal laws, and because studies, which are hereby accepted and adopted, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 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 article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to prevent young people from starting to smoke as stated in Minn. Stats. § 144.391.

Sec. 26-33. Responsibility of licensee for acts of employees.

All licensees under this article 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 such 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 article, state or federal law, or other applicable law or regulation.

Sec. 26-34. Inspection of licensed premises.

All licensed premises shall be open to inspection by the city police department or other authorized city official during regular business hours.

(Code 1982, § 708.18(1))

Sec. 26-35. Compliance checks.

- (a) Authorized. From time to time, but at least once per year, the city shall conduct unannounced compliance checks at each location where tobacco is sold to test compliance with Minn. Stats. § 609.685.
- (b) Use of minors to conduct checks.
 - (1) The city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years, to enter the licensed premises to attempt to purchase tobacco, tobacco products, or tobacco-related devices.
 - (2) Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated city personnel.
 - (3) Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase or the unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained or attempted to be obtained as a part of the compliance check.
 - (4) 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 employee, and shall produce any identification, if any exists, for which he is asked.
- (c) State and federal compliance checks. 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.

Sec. 26-36. Exceptions and defenses.

Nothing in this article shall prevent the provision of tobacco, tobacco products, or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to a violation of this article for a person to have relied in good faith upon proof of age as described in Minn. Stats. § 340A.503, subd. 6.

Sec. 26-37. Violations relating to underage persons.

- (a) Illegal sales. It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, or tobacco-related device to any person under the age of 18 years.
- (b) Illegal possession. It shall be a violation of this article for any minor to have in his possession any tobacco, tobacco product, or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (c) Illegal use. It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.
- (d) Illegal procurement. It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- (e) Use of false identification. It shall be a violation of this article for any minor to attempt to disguise his 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.

Sec. 26-38. Vending machines.

It shall be unlawful for any person to sell tobacco, tobacco products, or tobacco-related devices by the means of a vending machine, except in a licensed tobacco products shop.

Sec. 26-39. Self-service sales.

- (a) Single packages.
 - (1) It shall be unlawful for a licensee under this article to allow the sale of single packages of cigarettes or smokeless tobacco in open displays where the customer may have access to such items without having to request the item from the licensee or the licensee's employee and there is not a physical exchange of the single package of cigarettes or single package of smokeless tobacco between the licensee or his clerk and the customer.
 - (2) Any retailer selling single packages of cigarettes or smokeless tobacco at the time of adoption of the ordinance from which this article is derived shall comply with this section within 30 days.
- (b) Cartons and multipack units.
 - (1) Cartons and other multipack units of packages of cigarettes or smokeless tobacco may be offered and sold through open displays accessible to the public.
 - (2) Subsection (b)(1) of this section will expire upon the effective date and implementation of Code of Federal Regulations title 21, part 897.16(c).

Sec. 26-40. Tobacco Products Shop

- (a) Tobacco products shops, as defined by this Article cannot be entered at anytime by persons younger than 18 years of age.
- (b) The self-service restrictions prescribed in Section 26-39 shall not apply to licensed tobacco products shops.
- (c) No license may be issued for a tobacco products shop where:
 - (1) the proposed location is ineligible for a license under city ordinance or state law
 - (2) the proposed location is in a zoning district where the business is not allowed pursuant to Chapter 30 of this code.
 - (3) the proposed location is located within 500 feet of a school or park property. The distance limitations shall be measured from property line to property line at the nearest point or from property line to the nearest point of the leased premises if the tobacco products shop is located in a multi-tenant facility.
 - (4) Where the proposed location is in a multi-tenant facility and does not have its own separate ventilation system.

Secs. 26-41 to 26-64. Reserved.

DIVISION 2. LICENSE

Sec. 26-65. Fee.

No license shall be issued under this division until the appropriate license fee shall be paid in full. Fees for a license are set by ordinance on an annual basis in the city's fee schedule. For licenses issued and which are to become effective other than on the first day of the licensing year, the fee to be paid with the application shall be a pro rata share of the annual license fee.

Sec. 26-66. Term.

All licenses issued under this division shall be valid for one calendar year. All licenses shall expire on December 31.

Sec. 26-67. Required.

No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related devices without first having obtained a license to do so from the city.

Sec. 26-68. Application.

The application for the license provided for in this division shall be made to the city clerk by filing the annual license fee and by completing an application form as provided by the city clerk. In addition to such information as the city clerk may require, the application shall include:

- (a) Whether the applicant is a natural person, corporation, partnership, or other form of organization.
- (b) The name of the applicant and all persons with an ownership interest in the business.
- (c) The permanent home address and the home telephone number of the applicant and all persons associated in the business.
- (d) The address of the premises to be licensed.
- (e) Whether all real estate taxes, assessments, or other financial claims of the city, state, or federal government for the business and premises to be licensed have been paid and, if not paid, the years for which delinquent.
- (f) Whether the applicant has ever used or been known by a name other than his/her true name, and if so, what was the name, or names, and information concerning dates and places where used.
- (g) A statement as to whether or not the applicant, the person managing the business, or all persons associated in the business have been convicted of any crime, misdemeanor or violation of any city, state, or federal law, involving activities licensed under this article, the nature of the offense and the punishment or penalty assessed therefor.
- (h) Other localities where the applicant has had or currently has a tobacco license.

Sec. 26-69. Grounds for Denial or Revocation

- (a) All license applications under this division shall be made to the city clerk and referred to the chief of police and such other municipal departments or offices as the city clerk deems necessary for verification and investigation of the facts set forth in the application. The chief of police and other department heads or officers consulted shall submit their reports and recommendations to the city clerk.
- (b) The existence of any particular ground for denial or revocation does not mean that the city must deny or revoke 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 section.
- (c) The council shall have the discretion to consider, in granting, denying, revoking, or renewing a license, any reasonable facts or circumstances relating to public health, safety, and welfare, including but not limited to the following:
 - (1) The applicant is under the age of 18 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 three years of the date of application.
 - (4) The applicant fails to provide any information required on the application, or provides false or misleading information.

- (5) The applicant is prohibited by federal, state, or local law, ordinance, or other regulation, from holding such a license.
 - (6) Any taxes or utility bills for the premises for which the license will be issued are delinquent.
 - (7) Failure to pay the yearly application fee.
- (d) Where a reasonable basis is found by the council to impose reasonable restrictions on the license, taking into consideration one or more of the facts or circumstances, the council may upon issuance or renewal of a license impose such reasonable conditions and restrictions on the manner and circumstances under which the licensed activity shall be conducted to preserve the public peace and protect and promote good order and security.
- (e) Failure of any person to comply with any of the ordinances of the city or the laws of the state shall be grounds for denying or revoking a license granted under this division. If a license is proposed to be denied or revoked by the City Council, the city must notify the applicant with the reason(s). The applicant shall be allowed an opportunity for a hearing pursuant to Chapter 38, Article II of this Code.

Sec. 26-70. License not to be issued for moveable place of business.

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

Sec. 26-71. No Transfers.

- (a) All licenses issued under this division 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. Relocation or sale of the business shall require the approval and issuance of a new license.
- (b) Transfer of 25 percent or more of the ownership interest of a business entity, or of a controlling interest of it, whichever is less, will be deemed a sale of the business. If the licensee is a business entity that is wholly owned by another entity, the same provisions about the transfer of ownership or a controlling interest will apply to the parent entity and any second parent entity that wholly owns the parent entity.
- (c) A sale of the business as defined in this section without the approval and issuance of a new license shall result in the unlicensed sale of tobacco, tobacco products, and tobacco related devices. Transfer of this amount of ownership interest without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this ordinance.

Sec. 26-72. Posting.

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

Sec 26-73. Penalty

- (a) Licensees.
Any licensee found to have violated this article, or whose employee has violated this article, shall be charged an administrative penalty of \$75.00 for a first violation of this article, \$200.00 for a second offense at the same licensed premises within a 24-month period, and \$250.00 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
- (b) Other Persons

Other individuals, other than minors, found to be in violation of this article shall be charged an administrative penalty of \$50.

(c) Minors.

Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase tobacco, tobacco products or tobacco-related devices shall be prosecuted according to state law and be required to complete tobacco-related education classes, diversion programs, or community services.

(d) Notice.

No penalty or suspension may take effect until the licensee or other individual has received notice, served personally by mail, of the alleged violation and of the opportunity for a hearing pursuant to Chapter 38 Article II.

(e) Prosecution of violation as misdemeanor.

Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this article or state law. If the city elects to seek misdemeanor prosecution, such action shall not prohibit an administrative penalty from also being imposed.

(f) Any person violating any provision of this ordinance or of any other law shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day a violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. A fine or sentence imposed does not affect the right of the city to suspend or revoke the license of the licensee as the Council deems appropriate.