

Tobacco Ordinance





ACKNOWLEDGEMENT OF RECEIPT
CITY OF SAINT PAUL'S TOBACCO ORDINANCE

I acknowledge that I was given a copy of the City of Saint Paul's Legislative code 324, 295 & 65.535, State Statutes 461.21 & 297F.01 and Federal Drug Administration (FDA) 1140.34 for tobacco, by the Department of Safety and Inspections (DSI).

I also acknowledge and understand that within my licensed premises I cannot possess, store, or offer for sale flavored nicotine or tobacco products or any other flavored substances that are designed or intended to be used in a manner which enables chewing, sniffing, smoking, or inhalation of vapors.

By signing below, I the license holder/applicant for a Tobacco Shop license acknowledges that I am responsible for reading, understanding and complying with the information contained therein for the establishment located at;

Business Address: _____

Doing Business As (DBA): _____

License Holders Print Name

License Holders Signature

Date

DSI Office Use Only:

Received By:

Date

Chapter 324. Tobacco

Sec. 324.01. License required.

- (a) No person may sell or offer for sale at retail within the city any licensed product or in any manner represent or hold themselves out as one who sells or offers for sale at retail any licensed product without a license from the city.
- (b) Any license issued pursuant to this chapter must be issued to the person, firm or corporation that operates the principal business at that address.
- (c) No license may be issued pursuant to this chapter for a location or place of sale if a tobacco license previously issued for that location or place of sale has been revoked for any reason other than nonpayment of license fees within the past five (5) years.

(Code 1956, § 366.02; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 1, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-12, § 1, 4-22-15; Ord 15-57, § 1, 1-6-16; Ord 19-57, § 1, 10-16-19; Ord 21-29, § 2, 11-3-21; Ord 23-52, § 2, 12-13-23)

Sec. 324.02. License for each location.

A license permits the licensee to sell licensed products at retail at the one (1) location specified in said license, and a separate license is required for each location.

(Code 1956, § 366.05; C.F. No. 94-341, § 2, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16; Ord 21-29, § 3, 11-3-21; Ord 23-52, § 3, 12-13-23)

Sec. 324.03. Definitions.

The following words and phrases, as used in this chapter, will, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

- (1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stats. § 297F.01, subd. 3, as may be amended from time to time.
- (2) *Cigarette* means and includes any roll for smoking, made wholly or in part of tobacco, irrespective of size and shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except whole tobacco leaf, and includes any cigarette as defined in Minn. Stats. § 297F.01, subd. 3.
- (3) *Drug paraphernalia* means drug paraphernalia as defined in Saint Paul Legislative Code Section 255.01.
- (4) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. 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.
- (5) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery 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 tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, 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 product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product or device is a flavored product.

- (6) *Licensed products* means collectively any tobacco, tobacco-related device, **electronic delivery device**, or nicotine or lobelia delivery product.
- (7) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia, **whether natural or synthetic**, intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale 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.
- (8) *Non-discounted price* means the higher of the price listed for licensed products on a package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the sale price.
- (9) *Price reduction instrument* means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, not included in the non-discounted price, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.
- (10) ***Sale* means and includes any transfer, conditional or otherwise, of title or possession.**
- (11) *Sale at retail* means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.
- (12) *Snuff* means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.
- (13) *Snus* means any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.
- (14) *Tobacco or tobacco product* means 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, including, but not limited to, cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus, snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products 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.
- (15) *Tobacco license* means either a tobacco shop or a tobacco products shop license.
- (16) *Tobacco shop license* means a license issued to a person, firm, or corporation for an establishment that:
- a. May offer for sale licensed products which are accessible to the public only with the intervention of a store employee; and
 - b. May allow persons who are under the age of twenty-one (21) to enter the establishment.
- (17) ***Tobacco products shop license*** means a license issued to a person, firm, or corporation for an establishment that:

- a. Must derive at least ninety (90) percent of its revenue from the sale of licensed products;
- b. Must prohibit persons who are under the age of twenty-one (21) from entering the establishment;
- c. Must be accessible only through a door opening directly to the outside; and
- d. Must be staffed by at least one (1) individual solely dedicated to the tobacco products shop during all operating hours.

(18) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(Code 1956, § 336.01; C.F. No. 94-341, § 3, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 10-1014, § 1, 10-13-10; Ord 13-8, § 1, 4-24-13; Ord 14-34, § 1, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 1, 11-1-17; Ord 21-29, § 4, 11-3-21; Ord 23-52, § 4, 12-13-23)

Sec. 324.04. Fee, duration, limitation on number of licenses.

(a) *License fee, duration.* The annual license fee for each license issued under this chapter will be established by ordinance as specified in section 310.09(b) of the Legislative Code. Each license will expire one (1) year from the date of issuance during each calendar year. The annual license fee will be prorated for licenses in force less than a full year.

(b) *Limitation on number of licenses and location.*

(1) The total number of tobacco shop licenses issued under this chapter will not exceed one hundred (100). The total number of tobacco products shop licenses issued under this chapter will not exceed fifteen (15). Establishments or locations holding either tobacco shop or tobacco product shop licenses on July 31, 2021, or with an application of a license pending on July 31, 2021, that is ultimately granted will not be affected by this limitation but will be entitled to have such licenses renewed or new license granted, subject to the following conditions:

- a. The establishment or location is in compliance with all other requirements of law and there exist no grounds for adverse actions against such licenses;
- b. The previous license has not terminated or expired more than one (1) year before the new license had been first applied for;
- c. A previous license has not been revoked by the council.

(2) No tobacco license may be issued to a person, firm, or corporation for any establishment located within one-half mile (2,640 feet) of another establishment possessing a tobacco license. Said one-half mile being calculated and computed as the distance measured from the property line of the premises or building proposed as the location for the tobacco license to the property line of any other tobacco license.

(Code 1956, § 336.03; Ord. No. 17386, § 1, 8-19-86; C.F. No. 92-1930, § 1, 1-14-93; C.F. No. 94-341, § 4, 4-13-94; C.F. No. 95-1271, § 1, 11-8-95; C.F. No. 97-314, § 1, 4-20-97; Ord 18-19, § 1, 6-27-18; Ord 21-29, § 5, 11-3-21; Ord 23-52, § 5, 12-13-23)

Sec. 324.05. Application.

In addition to any other information required by the director, the applicant must state the true name of the applicant, the name under which they will conduct their business, whether such business is that of an individual, sole trader, firm, partnership, or corporation, and the address where such business is to be conducted. Any person applying for more than one (1) license must file with the department of safety and inspections a list of all locations for which license applications are being filed. Any change in the location of the place of sale will require a new license application.

(Code 1956, § 336.04; C.F. No. 94-341, § 5, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 07-149, § 81, 3-28-07; Ord 21-29, § 6, 11-3-21; Ord 23-52, § 6, 12-13-23)

Sec. 324.06. License to be displayed.

The license must be displayed by the licensee in a prominent and conspicuous place at the licensed location.

(Code 1956, § 336.06; C.F. No. 94-341, § 6, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16; Ord 23-52, § 7, 12-13-23)

Sec. 324.07. Sales prohibited.

- (a) No person may sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes may be sold individually or in packages of fewer than twenty (20) cigarettes.
- (b) No person may sell or dispense licensed products from a motor vehicle or other movable place of business.
- (c) No person may sell licensed products from vending machines. ~~Unless the vending machines are in a facility that cannot be entered at any time by persons younger than twenty-one (21) years of age.~~
- (d) No person may offer for sale licensed products in any open displays which are accessible to the public without the intervention of a store employee. This restriction does not apply to establishments holding a tobacco products shop license.
- (e) No person may sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents (\$2.60) per cigar contained within. In addition, no person may sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents (\$10.40) per package.
- (f) No person may sell or offer for retail sale cigarette packages or cartons for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per pack.
- (g) No person may sell or offer for retail sale moist snuff retail packages or multipacks for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 1.2 ounce package. No person may sell or offer for retail sale any smokeless tobacco/moist snuff unless it is sold in a package of at least 1.2 ounces minimum package size. The price floor for packages larger than 1.2 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.
- (h) No person may sell or offer for sale or otherwise distribute snus for a sales price, prior to applicable sales taxes being imposed, of less than ten dollars (\$10.00) per 0.32 ounce package. No person may sell or offer for retail sale any snus unless it is sold in a package of at least 0.32 ounces minimum pack size. The price floor for packages larger than 0.32 ounces shall be computed by adding two dollars and fifty cents (\$2.50) for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.
- (i) No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited.
 - (1) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stats. § 340A.503, subd. 6.
- (j) No person may sell, offer for sale, or otherwise distribute any flavored products, unless excepted under section 324.07(l) of this chapter.
- (k) *Coupons and price promotions.* No holder of a license issued under this chapter, nor any employee or agent of same, may:

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- (1) Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any price reduction instrument or other offer that provides any licensed product without charge or for less than the listed or non-discounted price; or
 - (2) Sell or offer to sell licensed products, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any licensed products, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other licensed products.

Nothing in this chapter is intended to prohibit communication of pricing information or other truthful, non-misleading information to consumers.

(l) *Exceptions.*

- (1) Notwithstanding section (i), individuals exempted under Minn. Stats. § 609.685 are also exempt from this section.
- (2) The penalties in this section do not apply to a person under the age of twenty-one (21) years who purchases or attempts to purchase licensed products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(3) Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products.

- (m) Any violation of this chapter will subject the licensee to provisions of chapter 310 and ~~section 324.10~~ of the Saint Paul Legislative Code.

(Code 1956, § 336.07; Ord. No. 17714, § 1, 2-20-90; C.F. No. 94-341, § 7, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; C.F. No. 06-872, § 1, 10-11-06; C.F. No. 10-1014, § 2, 10-13-10; Ord 13-8, § 2, 4-24-13; Ord 14-34, § 2, 8-27-14; Ord 15-57, § 1, 1-6-16; Ord 17-28, § 2, 11-1-17; Ord 19-57, § 2, 10-16-19; Ord 21-29, § 7, 11-3-21; Ord 23-52, § 8, 12-13-23)

Sec. 324.08. Distribution of free products prohibited.

No person may distribute any tobacco products free to any person on the sidewalks, pedestrian concourses, pedestrian malls or pedestrian skyway systems within the city.

(Code 1956, § 336.08; Ord. No. 17714, § 1 2-20-90; C.F. No. 92-1930, § 2, 1-14-93; C.F. No. 94-341, § 8, 4-13-94; C.F. No. 97-314, § 1, 4-20-97; Ord 15-57, § 1, 1-6-16; Ord 21-29, § 8, 11-3-21; Ord 23-52, § 9, 12-13-23)

Chapter 295. - Sale of Imitation Tobacco Products and Novelty Lighters

Sec. 295.01. - Purpose and findings of fact.

The city council finds that:

Studies in journals such as BMJ (formerly British Medical Journal), Pediatrics, and Preventive Medicine have demonstrated that candy cigarettes and other imitation tobacco products predispose children to use tobacco later in life by desensitizing them and promoting tobacco use as culturally or socially acceptable. One such study concluded that 22% of adults who had regularly consumed candy cigarettes were regular or former smokers, compared with only 12% of adults who had never consumed candy cigarettes.

The World Health Organization's Framework Convention on Tobacco Control, which has been ratified by more than 160 countries which represent 85% of the world's population, lists the prohibition of "the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors" as an effective legislative measure that discourages youth tobacco use.

Several countries, including Australia, Canada, Finland, Kuwait, Norway, Saudi Arabia, Thailand, and the United Kingdom have prohibited the sale of candy cigarettes. Several national retailer chains, including Conoco-Phillips, CVS, Exxon-Mobil, and Wal-Mart have agreed not to sell candy cigarettes and/or other imitation tobacco products.

Internal tobacco company documents disclosed as part of Minnesota's 1998 tobacco settlement reveal that tobacco manufacturers consented to the use of their trademarks by candy cigarette manufacturers in the hopes that such products would encourage children to become smokers. Tobacco companies viewed candy

cigarettes as "effective advertising for future smokers."

Under the terms of the 1998 Master Settlement Agreement between 46 states and the largest tobacco manufacturers, the manufacturers agreed not to oppose the passage of any state or local legislative proposals "intended by their terms to reduce youth access ... to tobacco products." A specific example of such a proposal is "limitations on non-tobacco products which are designed to look like tobacco products, such as bubble gum cigars, candy cigarettes, etc."

Sec. 295.02. - Definitions.

- (a) *Imitation tobacco product* means either: any edible non-tobacco product designed to resemble a tobacco product; or any non-edible non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy.

Examples of imitation tobacco products include, but are not limited to, candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling spit tobacco, and shredded beef jerky in containers resembling snuff tins. An electronic cigarette is not an imitation tobacco product.

- (b) *Novelty lighter* means a a mechanical or electrical device typically used for lighting cigarettes, cigars or pipes that is designed to appear to be a toy, has entertaining audio or visual effects, or that resembles, in physical form or function, articles commonly recognized as appealing to or intended for use by children. Examples of novelty lighters include, but are not limited to, lighters that resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features.

Sec. 295.03. - Prohibitions.

No person shall sell or offer for sale any imitation tobacco product or novelty lighter within the city. No licensed establishment shall give away any imitation tobacco product or novelty lighter within the city.

This section shall not apply to cigarette lighters that were made before January 1, 1980, or that are considered to be collectable items.

Sec. 295.04. - Violations and penalties.

- (a) It is a violation for any person to fail to comply with the requirements of this chapter.
 - (b) Penalties. Failure to comply with the requirement of this chapter shall be a basis for adverse action under Saint Paul Legislative Code § 310.06.
 - (c) A violation of any provision of this chapter shall be a misdemeanor.
- Sec. 295.05. - Severability and savings clause. If any portion of this chapter, or its application to any circumstances, is held invalid, the remaining portions shall be considered severable, and shall be given effect to the maximum effect possible.

ZONING

Sec. 65.535. - Tobacco products shop.

A retail establishment with a principal entrance door opening directly to the outside that derives more than ninety (90) percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, electronic cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Standards and conditions:

- (b) In the BC community business (converted) and T2 traditional neighborhood districts, a conditional use permit is required for tobacco products shops with a floor area greater than two thousand five hundred (2,500) square feet.

STATE STATUTES

461.21 KIOSK SALES PROHIBITED.

No person shall sell tobacco, tobacco-related devices, or electronic delivery devices as defined in section [609.685, subdivision 1](#), or nicotine or lobelia delivery products as described in section [609.6855](#), from a moveable place of business. For the purposes of this section, a moveable place of business means any retail business whose physical location is not permanent, including, but not limited to, any retail business that is operated from a kiosk, other transportable structure, or a motorized or nonmotorized vehicle.

History: [2014 c 291 art 6 s 32](#)

Storage of Tobacco Products

297F.01 DEFINITIONS.

Subd. 13. **Place of business.** "Place of business" means a place where cigarettes or tobacco products are sold or where cigarettes or tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine.

Subd. 18. **Storage.** "Storage" means any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

Subd. 22. **Use.** "Use" means the exercise of a right or power incidental to the ownership of cigarettes or tobacco products.

Federal Drug Administration

Advertising Promotion of tobacco - Gifts/Swag Give Aways

TITLE 21--FOOD AND DRUGS
CHAPTER I--FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
SUBCHAPTER K - TOBACCO PRODUCTS

PART 1140 -- CIGARETTES, SMOKELESS TOBACCO, AND COVERED TOBACCO PRODUCTS

Subpart D - Labeling and Advertising

Sec. 1140.34 Sale and distribution of nontobacco items and services, gifts, and sponsorship of events.

(a) No manufacturer and no distributor of imported cigarettes or smokeless tobacco may market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold any item (other than cigarettes or smokeless tobacco or roll-your-own paper) or service, which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco.

(b) No manufacturer, distributor, or retailer may offer or cause to be offered any gift or item (other than cigarettes or smokeless tobacco) to any person purchasing cigarettes or smokeless tobacco in consideration of the purchase thereof, or to any person in consideration of furnishing evidence, such as credits, proofs-of-purchase, or coupons, of such a purchase.

(c) No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, in the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco. Nothing in this paragraph prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation which manufactures the tobacco product, provided that both the corporate name and the corporation were registered and in use in the United States prior to January 1, 1995, and that the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco.