



# City of New Hope Business Licensing

4401 Xylon Ave N • New Hope MN 55428 • Phone: 763-531-5123 • newhopemn.gov

## Business License Application

Name of Business (dba): \_\_\_\_\_

Business Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Business Fax: \_\_\_\_\_

Cell Phone (optional): \_\_\_\_\_ Email : \_\_\_\_\_

(If Applicable)

Corporation Name: \_\_\_\_\_

Corporation Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Corporation Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If corporation, please attach names and addresses of all officers

Mail correspondence to:  Corporation  Business      Mail license to:  Corporation  Business

9001.	License	Fees	Total*
4120	Bowling alleys	\$15 x number of lanes _____	
4140	Car wash	\$55	
4125	Carnivals and circuses	\$65	
4125	Charitable gambling	\$150 investigation fee	
4170	Fireworks	\$125	
4115	Garbage and refuse collectors	\$150 plus \$50 x number of vehicles _____	
4140	Gasoline, diesel fuel and liquefied petroleum gas	\$50 per station plus \$5 x number of hoses ____; \$10 per nonpublic pump plus \$1 x no. of hoses ____; \$25 (wholesale or gas storage plant)	
4125	Laundromat	\$55	
4165	Lawn fertilizers	\$100 plus \$25 x number of vehicles _____	
4160	Outdoor sales of seasonal produce	\$100	
4125	Pawn brokers and precious metal dealers	Initial \$500 investigation fee and \$500 non-refundable application fee; application fee is applied to \$2,500 annual license fee if approved	
4125	Pinball machines, video games, computer game/tech and pool tables	\$15 per location plus \$5 x number of devices ____; \$500 special event permit per year	
4125	Secondhand dealers	\$200 annually plus \$200 initial application fee	
4125	Sexually oriented business	\$5,000 plus \$500 investigation fee	
4125	Tattoo and body piercing establishments	\$300 annually plus initial \$400 investigation fee	
4125	Therapeutic Massage:   Enterprise Therapist	\$100 annually plus \$300 investigation fee \$100 annually plus \$300 investigation fee	
4130	Tobacco and related products	\$250	
4125	Trailer and truck rental	\$40	

\*New applications made after July 1 are subject to 50% reduced fee. Not applicable to background investigation fees.

I understand that the above information will be used to consider issuance of a business license in the city of New Hope. I certify that the information provided is accurate and complete to the best of my knowledge.

Applicant Name Printed

Date

Signature of Applicant

**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.

*FOR MUNICIPAL USE ONLY*

<b>Print or Type</b>	Applicant's Minnesota Tax ID Number		The Minnesota Tax ID must be issued in the same legal name of the licensee below.		License Authority
					License Number
	<b>Cigarettes/tobacco products will be sold</b> (a separate license is required for each location or vending machine):				Period Covered
	<input type="checkbox"/> Over Counter	<input type="checkbox"/> Through Vending Machine	<input type="checkbox"/> Both		Date of Issuance
	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

<b>Business Information</b>	<b>Type of legal organization (check one):</b>				
	<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			
	<b>Corporate officers or partners (attach a list if necessary)</b>				
	Name		Title		
Address		City	State	ZIP Code	
Name		Title			
Address		City	State	ZIP Code	

<b>Statement of Understanding</b>	<b>As a licensed tobacco products or cigarette retailer, I understand that:</b>				
	1. I can purchase cigarettes and tobacco from a Minnesota distributor or subjobber who holds a license with the Minnesota Department of Revenue. The Cigarette and Tobacco Distributor List is on our website. Go to <a href="http://www.revenue.state.mn.us">www.revenue.state.mn.us</a> and type Distributor List in the Search box.				
	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.				

<b>Sign Here</b>	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, email or fax to:  
 Minnesota Revenue, Mail Station 3331, St. Paul, MN 55146-3331.  
 Fax: 651-556-5236. Email: [cigarette.tobacco@state.mn.us](mailto:cigarette.tobacco@state.mn.us)

# Certificate of Compliance

## Minnesota Workers' Compensation Law

This form must be completed by the business license applicant.

**Print in ink or type**

Minnesota Statutes § 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minn. Stat. chapter 176. 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.

License or certificate number (if applicable)	Business telephone number	Alternate telephone number
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Business name (Provide the legal name of the business entity. If the business is a sole proprietor or partnership, provide the owner's name(s), for example John Doe, or John Doe and Jane Doe.)

DBA ("doing business as" or "also known as" an assumed name), if applicable

Business address (must be physical street address, no P.O. boxes)	City	State	ZIP code
County	Email address		

**You must complete number 1 or 2 below.**

**Note:** You must resubmit this form to the authority issuing your license if any of the information you have provided changes.

1.  **I have a workers' compensation insurance policy.**

Insurance company name (not the insurance agent)

Policy number	Effective date	Expiration date
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**I am self-insured for workers' compensation.** (Attach a copy of the authorization to self-insure from the Minnesota Department of Commerce; see [www.mn.gov/commerce/industries/insurance/licensing/self-insurance](http://www.mn.gov/commerce/industries/insurance/licensing/self-insurance).)

2. **I am not required to have workers' compensation insurance because:**

- I only use independent contractors and do not have employees. (See [Minn. Stat. § 176.043](#) for trucking and messenger courier industries; [Minn. Stat. § 181.723, subd. 4](#), for building construction; and [Minnesota Rules chapter 5224](#) for other industries.)
- I do not use independent contractors and have no employees. (See [Minn. Stat. § 176.011, subd. 9](#), for the definition of an employee.)
- I use independent contractors and I have employees who are not required to be covered by the workers' compensation law. (Explain below.)
- I only have employees who are not required to be covered by the workers' compensation law. (Explain below.) (See [Minn. Stat. § 176.041](#) for a list of excluded employees.)

Explain why your employees are not required to be covered

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

**Print name**

Applicant signature (required)	Title	Date
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If you have questions about completing this form or to request this form in Braille, large print or audio, call (651) 284-5032 or 1-800-342-5354.



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## Tax Identification Form

Pursuant to laws of Minnesota, 2016, (270C.72) (Tax Clearance; Issuance of Licenses), the licensing authority 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.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, the city is required to advise you of the following regarding the use of this information:

1. This information may be used to deny the issuance or renewal of your license in the event that you owe Minnesota sales, employer's withholding or motor vehicle excise taxes.
2. Upon receiving this information, the licensing authority will supply it only to the Minnesota Department of Revenue. However, under the Federal Exchange of Information Agreement the Department of Revenue may supply this information to the Internal Revenue Service.
3. **Failure to supply this information may jeopardize or delay the processing of your application.**

Please supply the following information and return along with your application to the licensing authority.

\_\_\_\_\_  
Business Owner's Last Name

\_\_\_\_\_  
Business Owner's First Name and Middle Initial

\_\_\_\_\_  
Business Owner's Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Business Owner's Social Security Number

\_\_\_\_\_  
Position (Officer, Partner, etc.)

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Business DBA

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Minnesota Tax Identification Number

\_\_\_\_\_  
Federal Tax Identification Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTENTION: TOBACCO LICENSE HOLDERS**

The New Hope City Council has established a policy that they will not license any business that sells drug paraphernalia products. It is our hope that you agree it is in the best interests of the community not to sell products that can be used for illegal narcotics use. We all share a common goal of reducing illegal narcotics use.

The Minnesota State Statutes read:

*Drug Paraphernalia Law*

Minn. Stat. §152.01(18)(a)(2) defines drug paraphernalia generally as "all equipment, products, and materials of any kind . . . which are knowingly or intentionally used primarily in . . . injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance."

Drug paraphernalia examples include but are not limited to:

- Glass or plastic smoke pipes (not designed for tobacco)
- Glass or plastic bongs of any kind
- So called "pinch" or "one" hitters with or without carry case
- Any other small pipe or smoking device which is commonly not associated with tobacco use

We are advising you that the presence of any drug paraphernalia items in your store could result in revocation of your tobacco license and/or criminal prosecution.

Thank you for your cooperation.

Sincerely,

Tim Hoyt  
Director of Police

## Sec. 8-7. - Tobacco and related products.

(a) *Definitions and interpretations.*

- (1) 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.
- (2) Cigar. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.
- (3) Compliance checks. The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to licensed products.
- (4) Electronic delivery devices. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, 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 U.S. 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. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, menthol, mint or wintergreen 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, 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 licensed product, 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 a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.
- (6) 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.

- (7) Licensed products. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.
- (8) Loosies. The common term used to refer to single cigarettes, cigars, and any other licensed product that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.
- (9) Moveable place of business. Any form of business that is operated out of a kiosk, 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.
- (10) Nicotine or lobelia delivery product. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco 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 U.S. Food and Drug Administration as a tobacco-cessation product, a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- (11) Pharmacy. A place of business at which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.
- (12) Retail establishment. Any place of business where licensed products are available for sale to the general public. The phrase includes but is not limited to grocery stores, Tobacco Products Shops, convenience stores, gasoline service stations, pharmacies, bars, and restaurants.
- (13) Sale. Any transfer of goods for money, trade, barter or other consideration.
- (14) Self-service display. The open display of licensed products in any manner where any person has access to the licensed products 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 product between the customer and the licensee or employee.
- (15) Smoking. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.
- (16) Tobacco. 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; 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 does not include any product that has been approved by the U.S. 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.

- (17) Tobacco products shop. A retail establishment that:
- a. Prohibits persons under 21 from entering at all times;
  - b. Derives at least 90 percent of its gross revenues from the sale of licensed products; and
  - c. Meets all of the following building or structural criteria:
    - i. Shares no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, or pass-throughs to the other business or retailer;
    - ii. Shares no wall with and has no part of its structure directly adjoined to another licensed tobacco retailer; and
    - iii. Is accessible by the public only by an exterior door.
- (18) Tobacco-related device. Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. Tobacco-related device includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.
- (19) Vending machine. Any mechanical, electric or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

(b) *License.*

- (1) License required. No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city pursuant to this ordinance.
- (2) Application. An application for a license to sell licensed products must be made on a form provided by the city. The application must 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. Upon receipt of a completed application, the City Clerk will forward the application to the City Council for action at its next regularly scheduled meeting. If the City Clerk determines that an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.
- (3) Action. The City Council may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the



applicant deemed necessary. If the City Council approves the application, the City Clerk will issue the license to the applicant. If the City Council denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

- (4) Term. All licenses issued are valid through the end of the respective calendar year in which the license was issued.
  - (5) Revocation or suspension. Any license issued may be suspended or revoked following the procedures set forth in subsection (j).
  - (6) Transfers. All licenses issued are valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location or person is prohibited.
  - (7) Display. All licenses must be posted and displayed at all times in plain view of the general public on the licensed premises.
  - (8) Renewals. The renewal of a license issued under this ordinance will be handled in the same manner as the original application.
  - (9) Issuance as privilege and not a right. The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.
  - (10) Minimum clerk age. Individuals employed by a licensed retail establishment under this ordinance must be at least 18 years of age to sell licensed products.
  - (11) Maximum number of licenses. The maximum number of licenses issued by the city at any time is limited to 21. When the maximum number of licenses has been issued, the city may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid city license will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.
  - (12) Smoking prohibited. Smoking is prohibited within the indoor area of any retail establishment licensed under this ordinance with the sole exception of smoking of samples only in Tobacco Products Shops.
  - (13) Samples prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost, except that Tobacco Products Shops may distribute samples for a reasonable cost.
- (c) *License fee.* No license will be issued under this ordinance until the appropriate license fees are paid in full. The annual fee for such tobacco license shall be as set forth in the city's fee schedule and may be amended from time to time.
- (d) *Basis for denial of license.*
- (1) Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:

- a. The applicant is under 21 years of age.
  - b. 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 licensed products.
  - c. The applicant has had a license to sell licensed products suspended or revoked within the preceding 12 months of the date of application.
  - d. The applicant fails to provide any of the information required on the licensing application, or provides false or misleading information.
  - e. The retail establishment for which the license is requested is a moveable place of business. Only fixed-location businesses are eligible to be licensed.
  - f. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.
- (2) Except as may otherwise be provided by law, the existence of any particular ground for denial does not compel the city to deny the license.
- (3) If a license is mistakenly issued or renewed to a person, it will be revoked upon the discovery that the person was ineligible for the license under this ordinance. The city will provide the license holder with notice of the revocation, along with information on the right to appeal.

(e) *Prohibited Acts.*

- (1) In general. No person shall sell or offer to sell any licensed product:
- a. By means of any type of vending machine.
  - b. By means of loosies as defined.
  - c. 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 products subject to this ordinance.
  - d. By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.
- (2) Legal age. 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 prominently and in plain view at all times 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.

- (3) Self-service merchandising. No person shall allow the sale of licensed products by means of self-service display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public.
- (4) Flavored products. No person shall sell or offer for sale any flavored products. This prohibition does not apply to the sale of flavored products that contain a taste or smell of menthol, mint or wintergreen, distinguishable by an ordinary consumer either prior to or during the consumption of the product. This prohibition does not apply to Tobacco Products Shops.
- (5) Liquid Packaging. No person shall sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery service, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.
- (f) *Responsibility.* Every licensee shall be responsible for the conduct of its employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee for purposes of imposing an administrative fine, license suspension or revocation. Nothing in this section shall be construed as prohibiting the city from also subjecting the employee to any civil penalties that the city deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.
- (g) *Compliance monitoring.* The police department shall conduct unannounced compliance checks at least once each calendar year at each location where licensed products are sold within the city. All licensed premises must be open to inspection by law enforcement officials during regular business hours. In accordance with state law, the city will conduct at least one compliance check that involves the participation of one person between the ages of 17 and 20 to enter licensed premises to attempt to purchase licensed products. Prior written consent is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel. Licensees and applicants shall be informed of this policy at the time of license application and renewal. Violators of these regulations will be subject to more frequent compliance monitoring than non-violating licensees. The police department shall make an annual report to the city council on the compliance checks conducted pursuant to this section.
- (h) *Other prohibited acts.*
  - (1) Prohibited furnishing or procurement. It is a violation of this ordinance for any person 21 years of age or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21. It is also a violation for any person 21 years of age and older to

coerce or attempt to coerce a person under the age of 21 to illegally purchase or attempt to purchase any licensed product.

- (2) Use of false identification. It is a violation of this ordinance for any person to use any form of false identification, whether the identification is that of another person or has been modified or tampered with to represent an age older than the actual age of the person using that identification.

(i) *Exceptions and defenses.*

- (1) Religious, spiritual, or cultural ceremonies or practices. Nothing in this ordinance prevents the provision of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
- (2) Reasonable reliance. It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

(j) *Violations and penalties.*

(1) Violations.

- a. *Notice.* A person violating this ordinance may be issued, either personally or by mail, a citation from the city that sets forth the alleged violation and that informs the alleged violator of his or her right to a hearing on the matter and how and where a hearing may be requested, including a contact address and phone number
- b. *Hearings.*
  1. Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within 10 business days of the issuance of the citation and delivered to the City Clerk or other designated city officer. Failure to properly request a hearing within 10 business days of the issuance of the citation will terminate the person's right to a hearing.
  2. The City Clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least 10 business days prior to the hearing.
- c. *Hearing officer.* The City Council will designate a hearing officer. The hearing officer will be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.
- d. *Decision.* A decision will be issued by the hearing officer within 10 business days of the hearing. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, will be recorded in writing, a copy of which will be provided to the city and the accused violator by in-person delivery or mail as soon as practicable. If the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings will be recorded and a copy will be provided to the city and the acquitted

accused violator by in-person delivery or mail as soon as practicable. The decision of the hearing officer is final, subject to an appeal as described in subsection (j)(1)(f) of this section.

- e. *Costs.* If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000 must be paid by the person requesting the hearing.
- f. *Appeals.* Appeals of any decision made by the hearing officer must be filed in Hennepin County district court within 10 business days of the date of the decision.
- g. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- h. *Revocation.* The city council has the authority to revoke any license as set out in section 8-2 of this Code notwithstanding the provisions of this section regarding violations.

(2) Administrative civil penalties.

- a. *Licensees.* If a licensee or an employee of a licensee is found to have violated this ordinance, the licensee shall be subject to the administrative sanctions described in the following matrix. In all cases the council shall select which days a suspension will be served. Other mandatory requirements may be imposed on the licensee, including, but not limited to, meetings with the police department to present a plan of action to assure that problems will not continue, mandatory education sessions involving all employees and employers with the police department or other actions that the city council deems appropriate. On a first and second violation, the licensee may elect training in proper identification procedures in lieu of the license suspension. The license suspension and training requirements shall be governed by and are subject to the conditions set out in subsection (j)(2) of this section.

*Fine and License Suspension*

1st Violation	2nd Violation (within 36 months of prior violation)	3rd Violation (within 36 months of two prior violations)	4th Violation (within 36 months of three prior violations)
\$300.00 plus 3 days suspension	\$750.00 plus 15 days suspension	\$1,500.00 plus 30 days suspension	Revocation

- b. *Training in lieu of suspension.* After the first and second violation within a 36-month period, a licensee may request training from the New Hope Police Department in proper

identification procedures. Said training shall be at the expense of the licensee, shall be in lieu of the entire three-day license suspension for a first violation and ten of the 15-day license suspension for the second violation required by subsection (j)(2)a. of this section, and shall be conducted per the following conditions:

1. Training for all employees of a licensee must be completed within two training sessions at the discretion of the New Hope Police Department.
  2. If more than one licensee is requesting the training, the New Hope Police Department retains control in deciding how many training sessions are necessary to accommodate the number of employees taking the training.
  3. It shall be the responsibility of the licensee to make certain that all employees successfully complete the required training. Failure to do so means the licensee has failed to meet the "training in lieu of suspension" requirement of the administrative penalty and will be subject to the entire license suspension.
  4. The licensee shall pay for all of the following costs for the training: supplies and materials, any facility costs, the personnel expenses for the trainer, all administrative costs of the training and any other costs staff deems necessary to conduct the training. Payment for the training must be made to the city clerk prior to the commencement of the training. Failure to make the payment will result in the cancellation of the training and the immediate imposition of the appropriate license suspension.
- (3) Other individuals. Individuals, other than persons under the age of 21 regulated by subsection j.(4) of this section, who are found to be in violation of this ordinance will be subject to an administrative penalty of \$50.00.
- (4) Persons under the age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The City Council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.
- (5) Misdemeanor prosecution. Nothing in this section prohibits the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance by a person 21 years of age or older.
- (k) *Severability*. If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.
- (l) *Effective date*. This ordinance becomes effective on the date of its publication, or upon the

publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

(Ord. No. 15-01, §§ 1, 2, 2-9-2015; Ord. No. 17-07, § 5, 7-24-2017; Ord. No. 20-08, § 1, 8-24-2020)