

CITY OF PLYMOUTH

ORDINANCE No. 2026-05

ORDINANCE AMENDING PLYMOUTH CITY CODE SECTION 1150 CONCERNING TOBACCO AND RELATED PRODUCTS AND SECTION 1010 CONCERNING LICENSE FEES

THE CITY OF PLYMOUTH, MINNESOTA ORDAINS:

SECTION 1. Section 1150.01 of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

1150.01. – Purpose and Intent.

~~Because t~~The City recognizes that tobacco use has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government. ~~;-t~~ This ordinance is intended to regulate the sale of tobacco, tobacco-related devices, electronic delivery devices, ~~and~~ nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, and to protect minors and young adults against the serious effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minnesota Statutes 144.391.

~~The City also recognizes that the use of tobacco products has devastating health and economic consequences. Tobacco use is the foremost preventable cause of premature death in America. It causes half a million deaths annually and has been responsible for 20.8 million premature deaths in the U.S. over the past 50 years since the first Surgeon General's report on smoking in 1964. This leads to more than \$300 billion in health care and lost worker productivity costs each year. In Minnesota, smoking was responsible for \$3.39 billion in excess medical expenditures and the deaths of 6,312 individuals in 2014. The City further recognizes that young people are particularly susceptible to the addictive properties of tobacco products, and are particularly likely to become lifelong users. An estimated 5.6 million youth aged 0 to 17 are projected to die prematurely from a tobacco-related illness if prevalence rates do not change. National data show that about 95 percent of adult smokers begin smoking before they turn 21. The ages of 18 to 21 are a critical period when many smokers move from experimental smoking to regular, daily use. Electronic delivery device use among minors has recently tripled and high among youth. Young minds are particularly susceptible to the addictive properties of nicotine. As a result, approximately three out of four teen smokers end up smoking into adulthood. In 2015, the Institute of Medicine concluded that raising the minimum legal sales age for tobacco products nationwide will reduce tobacco initiation, particularly among adolescents aged 15 to 17, improve health across the lifespan, and save lives; and that raising the minimum legal sales age for tobacco products nationwide to 21 would, over time, lead to a 12 percent decrease in smoking prevalence. The Institute of Medicine also predicts that raising the minimum legal sales age for tobacco products nationwide to 21 would result in 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019, and would result in near immediate reductions in preterm birth, low birth weight, and sudden infant death syndrome. In making these findings, the City Council accepts the conclusions and recommendations of the U.S. Surgeon General reports, "E cigarette-~~

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

SECTION 2. Section 1150.02 of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

1150.02. – Definitions.

For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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.

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. Stats. § 297F.01, subd. 3, as may be amended from time to time.

Compliance Checks. The system the City uses to investigate and ensure that those authorized to sell tobacco-related products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of persons under the age of 21 as authorized by this ordinance. Compliance checks shall also mean the use of persons under the age of 21 who attempt to purchase tobacco-related products for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco-related products.

Electronic Delivery Device. 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 nicotine cessation product that has been approved by the U.S. Food and Drug Administration to be marketed and for sale as "drugs," "devices," or "combination products," as defined in the Federal Food, Drug, and Cosmetic Act. Any product containing or delivering nicotine, lobelia, or any other substance-

~~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, 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 also 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.~~

Flavored Product. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during consumption or use of the product or device, 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, or a cooling or numbing sensation distinguishable by an ordinary consumer either prior to or during the consumption of such licensed product. A public statement or claim, whether express or implied, made or disseminated by the manufacturer or retailer of a licensed product, or by any person authorized or permitted by the manufacturer or retailer 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, or a cooling or numbing sensation, shall constitute presumptive evidence that the product is a flavored product. Presumptive evidence may include but is not limited to the use of terms such as "cool," "chill," "ice," "fresh," "arctic," or "frost" to describe the product.

Individually Packaged. The practice of selling any tobacco product wrapped individually for sale. Individually wrapped tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

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.

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

Moveable Place of Business. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Nicotine. Any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived.

Nicotine or Lobelia Delivery Product. 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 tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any nicotine cessation product that has been approved by the U.S. Food and Drug Administration to be marketed and for sale as "drugs," "devices," or "combination products," as defined in the Federal Food, Drug, and Cosmetic Act. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic-

~~delivery device as defined in this section. Nicotine or Lobelia Delivery Products do not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, or for other medical purposes, and is being marketed and sold solely for that approved purpose.~~

Person. One or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; a political subdivision of the state; or any other business organization.

Retail Establishment. Any place of business where tobacco-related products, are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores, restaurants, and drug stores.

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

Self-Service Merchandising. Open displays of tobacco-related products in any manner where any person shall have access to tobacco-related 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 tobacco-related product between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

Smoking. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

Tobacco or Tobacco Products. Any product containing, made from, or derived from tobacco that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled 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; snus; 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 or tobacco product does not include any nicotine cessation product that has been approved by the U.S. Food and Drug Administration to be marketed and for sale as "drugs," "devices," or "combination products," as defined in the Federal Food, Drug, and Cosmetic Act. ~~Tobacco does not include 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 medical purposes, and is being marketed and sold solely for such an approved purpose.~~

Tobacco-Related Devices. A pipe, rolling papers, ashtray, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking of tobacco or otherwise ingesting of. Tobacco-related devices includes components of tobacco-related devices which may be marketed or sold separately.

Tobacco-Related Product. Any tobacco, tobacco-related device, electronic delivery device, nicotine or lobelia delivery product or nicotine, as those terms are defined in this section.

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

SECTION 3. Section 1150.03 of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

1150.03. – License.

Subd. 1. **License Required.** No person shall sell or offer to sell any tobacco-related product without first having obtained a license to do so from the City.

Subd. 2. **Maximum Number of Licenses.**

- (1) The maximum number of new licenses issued to tobacco retail establishments by the city at any time is limited to zero. The city will only renew existing licenses to license holders that were issued prior to [insert date of ordinance adoption] and have applied for renewal by November 15 of each year. Eligible parties will lose the existing license if they fail to renew it annually or if the license is revoked for any reason.
- (2) Succession Allowance. The City will allow an existing tobacco retailer license to be issued to a new owner of an existing tobacco retail establishment if:
 - (a) The tobacco retail establishment is sold to or ownership is transferred to the new owner; and,
 - (b) The new owner applies for a license within one year of ownership and meets the requirements for licensure under this section.

Subd. ~~32.~~ **Application.** An application for a license to sell tobacco-related products, shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

Subd. ~~43.~~ **Action.** The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

Subd. ~~54.~~ **Term.** All licenses issued under this section shall be valid for one calendar year from the date of issue except that initial licenses shall expire on December 31 of the year they are issued.

Subd. ~~65.~~ **Revocation or Suspension.** Any license issued under this Section may be revoked or suspended as provided in Section 1150.12.

Subd. ~~76.~~ **Transfers.** All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location ~~or person~~ shall be valid without the prior approval of the City Council. A licensee seeking to transfer their license to another location shall submit all information required for issuance of a new license and pay the license fee for a Tobacco and Related Products license. The City Council shall approve the transfer only if the new location meets the requirements for licensure under this Chapter, except that a transfer of an existing license shall not be subject to any restriction on the maximum number of licenses available.

Subd. ~~87~~. **Moveable Place of Business.** No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

Subd. ~~98~~. **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. ~~109~~. **Renewals.** The renewal of a license issued under this Section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

Subd. ~~110~~. **Issuance as Privilege and Not a Right.** The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

Subd. ~~121~~. **Smoking.** Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. This includes, but is not limited to, smoking for the purpose of sampling tobacco-related products.

Subd. ~~132~~. **Age Verification.** Licensees shall verify by means of government-issued photographic identification that the purchaser of tobacco-related products 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 shall not constitute a defense to a violation of this subsection.

Subd. ~~143~~. **Signage.** Notice of the legal sales age and the age verification requirement shall be posted at each location where tobacco-related products are offered for sale. The required signage, which will be provided to the licensee by the City, shall be posted in a manner so that it is clearly visible to anyone who is considering or making a purchase.

Subd. 15. Tobacco License Buffer.

(1) Operations.

(a) No tobacco license establishment making retail sales to customers may operate, and no license will be issued, within the Tobacco License Buffer. The establishment of a school or park amenity regularly used by minors within the prohibited area after the original license application has been granted shall not, in and of itself, render such premises ineligible for renewal of license or expansion.

(2) Measurement.

(a) The Tobacco License Buffer 500-foot distance shall be measured from:

- a. The closest parcel edge of any contiguously owned school; or
- b. The closest edge of any playfield parcel; or
- c. The nearest park amenity point.

(b) The Tobacco License Buffer 500-foot distance shall be measured to:

- a. For single tenant buildings, the freestanding parcel upon which the establishment is to be licensed.
- b. In multitenant buildings, the buffer shall be measured from the closest exterior walls of owned or leased tenant space.

(c) The Tobacco License Buffer Map shall be maintained by the Zoning Administrator and available for reviewing.

SECTION 4. Section 1150.05 of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

1150.05. – Prohibited Acts.

- A. It shall be a violation of this Section for any person to sell or offer to sell any tobacco-related product:
1. To any person under the age of 21 years.
 2. By means of any type of vending machine.
 3. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco-related product, and whereby there is not a physical exchange of the tobacco-related product between the licensee, or the licensee's employee, and the customer.
 4. By means of loosies.
 5. Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
 6. In the form of liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.
 7. By 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.
- B. Coupon and price promotion. No person will accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any licensed products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.
- C. Flavored products. No person will sell or offer for sale any flavored products after January 1, 2028.

SECTION 5. Section 1150.12 of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

1150.12. – Violations.

- A. *Petty Misdemeanors.* Any person who violates this ordinance shall be guilty of a petty misdemeanor unless the violation has a specific penalty designated by state law.
- B. *Administrative Civil Penalties; Individuals.* An individual who sells tobacco-related products to a person under the age of 21 years shall be subject to an administrative penalty of \$50.00. No penalty may be imposed until the individual has received notice, served personally or by mail, of

the alleged violation and an opportunity for a hearing before the Chief of Police or his/her designee. A decision that a violation has occurred must be in writing.

- C. *Administrative Civil Penalties; Licensee.* If a licensee or an employee of a licensee sells, gives, or otherwise furnishes ~~tobacco-related products, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products~~ to a person under the age of 21 years, or violates any other provision of this Chapter, the licensee shall be subject to an administrative penalty as follows. If applicable, such penalty shall comply with the minimum and maximum penalties established by Minn. Stat. § 461.12:

Offense	Minimum (State)	Presumptive Penalty (City)	Maximum (City/State)
1 st Violation	\$300.00 and/or 0 days suspension	\$500.00 fine and 5-day suspension ~~stayed~~	\$2,000.00 and/or 60-days suspension
2 nd Violation (within 36 months)	\$600.00 and/or 0 days suspension	~~\$750.00~~ \$1,000.00 fine and ~~510~~ -day suspension	\$2,000.00 and/or 60-days suspension
3 rd Violation (within 36 months)	\$1,000.00 and 7 days suspension	~~\$1,000.00~~ \$2,000.00 fine and ~~1020~~ -day suspension	\$2,000.00 and/or 60 days suspension
4 th Violation (within 36 months)	None listed	Revocation	Revocation

No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

- D. *Defense.* It is a defense to the charge of selling tobacco-related products to a person under the age of 21 years, that the licensee or individual, in making the sale, reasonably and in good faith relied upon representation of proof of age described in Minnesota Statutes, section 340A.503, subdivision 6, paragraph (a).

SECTION 6. Section 1150.13 of the Plymouth City Code is added, with new text as follows:

1150.13. – 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.

SECTION 7. Section 1010. Subd. 7, H. (License Fees, Miscellaneous, Tobacco and Related Products) of the Plymouth City Code is amended, with existing text, ~~deleted text~~, and new text as follows:

Type of License	Fee
H. Tobacco and Related Products	~~\$300.00~~ \$500.00

SECTION 8. Effective Date. This Ordinance shall be in full force and effect upon its passage.

ADOPTED by the City Council this 28th day of April, 2026.

Clark Gregor, Deputy Mayor

ATTEST:

Jodi Gallup, City Clerk

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