

BECKER COUNTY TOBACCO ORDINANCE
ORDINANCE NO. 14
AMENDMENT

The County Board of the County of Becker, Minnesota, hereby ordains:

1. **Purpose.** Because the Becker County Board recognizes that many persons under the age of 21 years purchase or otherwise obtains, possesses, and uses tobacco, and such sales, possession, and use are violations of both state and federal laws. This ordinance shall be intended to regulate the sale, possession, and use of tobacco, to protect persons under the age of 21 against the serious effects associated with the illegal use of tobacco and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke in Minnesota Statute Section 144.391.
2. **Application.** This ordinance shall apply to all of Becker County, Minnesota except for those townships or cities that license and regulate the retail sale of tobacco under an ordinance enacted pursuant to the requirements of Minnesota Statute Section 461.12.
3. **Definitions.**
 - a. This ordinance follows Minnesota Statute Section 609.685 Sub 1 regarding the definition of tobacco, tobacco products, tobacco-related devices and electronic delivery devices.
 - b. **Minor.** “Minor” is now defined as persons under the age of twenty-one (21) years.
 - c. **Retail Establishment.** “Retail establishment” shall mean any place of business where tobacco or tobacco products are available for sale to the general public.
 - d. **Sale.** A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.
 - e. **Compliance Checks.** “Compliance Checks” shall mean the system the County uses to investigate and ensure that those authorized to sell tobacco and tobacco products.
4. **License.** No person shall sell or offer to sell any tobacco or tobacco products without first having obtained a license to do so from the County.
5. **Application.** An application for a license to sell tobacco or tobacco products shall be made on a form provided by the County Auditor. 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 County deems necessary. Upon receipt of a completed application, the County Auditor shall forward the application to the Becker County Board of Commissioners for action at its next regularly scheduled board meeting.
6. **Action.** The County Board may either approve or deny the license, or it may delay action for such reasonable period of time necessary to complete any investigation of the application or the applicant it deems necessary.
7. **Term.** All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.
8. **Revocation or Suspension.** Any license issued under this ordinance may be revoked or suspended as

provided in the Violations and Penalties section of this ordinance or for failure of a licensee to pay any administrative penalty imposed for a violation of this ordinance.

9. **Transfers.** All licenses issued under this ordinance 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 Becker County Board of Commissioners.
10. **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 ordinance.
11. **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
12. **Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license. The issuance of a license under this ordinance 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.
13. **Fees.** No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be established from time to time by resolution of the Becker County Board of Commissioners.
14. **Basis for Denial of License.** The following shall be grounds for denying the issuance or renewal of a license under this ordinance:
 - a. The applicant is under the age of 21 years.
 - b. The applicant has been convicted within the past five years of any violation of Federal, State or local law, ordinance provision, or other regulation relating to tobacco or tobacco products.
 - c. The applicant has had a license to sell tobacco or tobacco products revoked within the preceding twelve months of the date of application.
 - d. The applicant fails to provide any information required on the application or provides false or misleading information.
 - e. The application is prohibited by Federal, State or other local law, ordinance or other regulation, from holding such a license.
15. **Sale Prohibited to Person Under 21.** It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco or tobacco product to any person under the age 21 years old.
16. **Vending Machines.** It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco products, electronic delivery devices, or nicotine or lobelia delivery products by the means of a vending machine unless persons under the age of 21 are at all times prohibited from entering the licensed establishment.
17. **Self-Service Sales – This ordinance will be in compliance of Minnesota State Statute 461.18 BAN ON SELF-SERVICE SALES.**

18. **Responsibility.** All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco or tobacco products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.
19. **Illegal Possession/Procurement.** It shall be a violation of this Ordinance for any person under the age of 21 to have in his or her possession, purchase or attempt to purchase any tobacco or tobacco product. This paragraph shall not apply to any person under the age of 21 lawfully involved in a compliance check.
20. **Compliance Check and Inspections.** This ordinance will be in compliance of Minnesota State Statute 461.12 subdivision 5
21. **Violations.**
 - a. **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
 - b. **Criminal Prosecution.** Nothing in this ordinance shall prohibit an alleged violator from being prosecuted criminally under State or Federal law.
 - c. **Continuing Violation.** Each violation and every day in which a violation occurs or continues, shall constitute a separate offense.
22. **Administrative Penalties for sales and furnishing: licensees.** If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person the age of 21 years or violates any other provision of statute 461.12, the licensee shall be charged an administrative penalty according to subdivision 2 and 2a.
23. **Administrative Penalties for sales and furnishing: individuals.** An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years may be charged an administrative penalty described in subdivision 3, statute 461.12.
 - a. **Defense.** It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.
 - b. **Judicial Review.** Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure in Minnesota Statute Section 462.361.
 - c. **Notice to Commissioner.** The licensing authority, within 30 days of the issuance of a license, inform the commissioner of revenue of the licensee's name, address, trade name, and the effective and expiration dates of the license. The commissioner of revenue must also be informed of a license renewal, transfer, cancellation, suspension, or revocation during the license period.

24. **Exceptions or Defenses.** Nothing in this ordinance shall prevent the providing of tobacco or tobacco products to a person under the age of 21 as a part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as describe by State law.
25. **Severability and Savings Clause.** If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or effect the validity and enforceability of any other section or provision of this ordinance.
26. **Effective Date.** This updated ordinance shall take effect on April 1, 2025.

This Ordinance was enacted by a majority vote of all the members of Becker County Board of Commissioners at a meeting held on the 4th day of March, 2025.

Dated: _____

David Meyer, Chairperson