

THE BELOW ORDINANCE WILL BE CONSIDERED AT THE
SEPTEMBER 16, 2019 CITY COUNCIL MEETING

POSTED: SEPTEMBER 6, 2019

CITY OF SPRING PARK
HENNEPIN COUNTY, MINNESOTA

ORDINANCE NO. 2019 - _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE II OF THE SPRING PARK
CITY CODE PERTAINING TO TOBACCO AND TOBACCO-RELATED DEVICES
AND PRODUCTS

THE CITY COUNCIL OF THE CITY OF SPRING PARK, MINNESOTA ORDAINS AS
FOLLOWS:

Section 1. Chapter 12, Article II of the Spring Park City Code is amended as
follows:

ARTICLE II. - ~~CIGARETTES AND~~ TOBACCO AND TOBACCO-RELATED DEVICES AND
PRODUCTS⁽²⁾

• ~~DIVISION 1. - GENERALLY~~

• ~~Sec. 12-31. - Sale of tobacco to underage persons -~~ Purpose and Intent.

(a) *Purpose.* Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws; and because studies, which are on file at the state health department and which the city accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this ~~section~~article shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

(b)

Sec. 12-32. - Definitions.

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

CIGARSCigars. Any roll of tobacco that is wrapped in tobacco leaf or in any substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in M.S. § 297F.01, subd. 3 as amended from time to time.

Compliance checks ~~means the~~. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this ~~section~~article. Compliance checks shall involve the use of minors as authorized by this ~~section~~article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products ~~and~~ tobacco-related devices, electronic cigarettes, electronic delivery devices, and nicotine or lobelia delivery devices.

~~**ELECTRONIC DELIVERY DEVICE AND ELECTRONIC CIGARETTE.**~~ Electronic Delivery Device and Electronic Cigarette. 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 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.

~~**HOOKAH.**~~ "Hookah" shall mean a. A pipe with a long, flexible tube by which the smoke is drawn through a jar of water and thus cooled for the use of tobacco or tobacco related products.

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

Loosies ~~means the~~. The common term used to refer to a single or individually packaged cigarette.

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.

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

Moveable place of business ~~refers to any~~. 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 OR LOBELIA DELIVERY DEVICES.**~~ Nicotine or Lobelia Delivery Devices. Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this ~~section~~article, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

PUBLIC PLACEPublic Place. Any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; retail and other commercial establishments; educational facilities; hospitals; nursing homes; auditoriums; arenas; meeting rooms; waiting rooms; and common areas of rental apartment buildings.

~~Retail establishment means any.~~ Any place of business where tobacco, tobacco products ~~or,~~ tobacco-related devices, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but are not limited to, grocery stores, convenience stores and restaurants.

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

SAMPLINGSampling. The lighting of tobacco, tobacco products, tobacco-related devices or the activation of and inhaling of vapor from electronic cigarettes in a retail establishment by a customer or potential customer for the purpose of sampling the product or device before a purchase.

~~Self-service merchandising means open.~~ Open displays of tobacco, tobacco products ~~or,~~ tobacco-related devices, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products or tobacco-related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product ~~or,~~ tobacco-related device, or nicotine or lobelia delivery device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

SMOKINGSmoking. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product or exhaling vapor from any electronic delivery device, such as vaping. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation.

SMOKING LOUNGESmoking Lounge. A tobacco products shop which allows customers to be seated.

~~Tobacco or tobacco-related products means any substance or item containing tobacco leaf, including but not limited to cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco;~~ Tobacco and tobacco products includes cigarettes and 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, including by vaping, or any component, part, or accessory of a tobacco product; cigars; pipe tobacco, cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff; ~~flowers; snuff flour;~~ cavendish; ~~shorts;~~ plug and twist tobacco; fine cut and other chewing tobaccos; dipping tobaccos ~~shorts;~~ refuse scraps, clippings, cuttings and sweepings of tobacco; dipping tobaccos; and other kinds and forms of tobacco ~~leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.~~ Tobacco 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.

~~Tobacco Products Shop.-related devices means any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which~~

~~enables the chewing, sniffing or smoking of tobacco or tobacco products.~~ **TOBACCO**

PRODUCTS SHOP: A retail establishment with an entrance door opening directly to the outside that derives more than ninety percent (90%) of its gross revenue from the sale of tobacco, tobacco related products, tobacco related devices, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco products department or section of any individual business establishment with any type of food, liquor, or restaurant license.

~~**VAPOR LOUNGE.** Tobacco-related devices. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.~~

Vapor Lounge. A vapor products shop which allows customers to be seated.

~~**VAPOR PRODUCTS SHOP:** Vapor Products Shop. A retail establishment with an entrance door opening directly to the outside that derives more than ninety percent (90%) of its gross revenue from the sale of electronic delivery devices, electronic cigarettes and related products and in which the sale of other products is merely incidental. "Vapor products shop" does not include a vapor products department or section of any individual business establishment with any type of food, liquor, or restaurant license.~~

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

(Ord. No. 67, §§ 1, 2, 1-20-1998)

~~**State Law reference**— Definition of "tobacco," Minn. Stat. § 609.685, subd. 1(a); definition of "tobacco-related devices," Minn. Stat. § 609.685, subd. 1(a); except for retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age, no person shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee, Minn. Stat. § 461.18; 21 CFR 897.16(c) applies to cartons and other multipack units, Minn. Stat. § 461.18, subd. 3; a licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minn. Stat. § 609.685, compliance checks must involve minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority, Minn. Stat. § 461.12, subd. 5.~~

● **Secs. 12-32 — 12-50. - Reserved.**

● **DIVISION 2. - ADMINISTRATION AND ENFORCEMENT**^[3]

● **Sec. 12-51. - 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~~the right to be heard on the accusation.

(b) *Hearings.* If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(c) *Hearing officer.* The city council shall serve as the hearing officer. (?)

(d) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under section 12-52, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

(e) *Appeals.* Appeals of any decision made by the hearing officer shall ~~be~~ may be filed in the district court ~~for the city~~.

(f) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this article. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(g) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. No. 67, § 12, 1-20-1998)

● **Sec. 12-52. - Penalties.**

(a) *Licensees.* Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine as determined by the city council. In addition, after the third offense, the license shall be suspended for not less than seven days.

(b) *Other individuals.* Other individuals found to be in violation of this article shall be charged an administrative fee as determined by the city council.

(c) *Misdemeanor.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.

(Ord. No. 67, § 13, 1-20-1998)

~~State Law reference — Whoever furnishes tobacco or tobacco-related devices to a person under the age of 18 years is guilty of a misdemeanor, Minn. Stat. § 609.685, subd. 2.~~

● **Sec. 12-53. - Exceptions and defenses.**

Nothing in this article shall prevent the providing of tobacco, tobacco products ~~or~~ electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

(Ord. No. 67, § 14, 1-20-1998)

~~State Law reference — Any person aggrieved by a decision made under the provisions of Minn. Stat. § 461.12, subds. 2 or 3, may have the decision reviewed in the district court in the~~

~~manner and procedure provided in Minn. Stat. § 462.361, Minn. Stat. § 461.12, subd. 7; due process provisions for those accused of selling or providing tobacco or tobacco-related devices to a minor, Minn. Stat. § 461.12, subs. 2 and 3.~~

Sec. 12-54. - Severability

If any section or provision of this article is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

● ~~Secs. 12-5455 — 12-80. - Reserved.~~

● ~~DIVISION 3. - LICENSE~~⁽⁴⁾

● ~~Sec. 12-81. - Required.~~

(a) *Obtaining from city.* No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related devices, electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery device without having obtained a license to do so from the city. 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 it was issued. No transfer of any license to another location or person shall be valid.

(b) *Application.* An application for a license to sell tobacco, tobacco products or tobacco-related devices, electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices 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 administrator/clerk/treasurer shall forward the application to the city council for action at its next regularly scheduled council meeting. If the ~~administrator/clerk/treasurer shall determine~~ city clerk determines that an application is incomplete, ~~he shall~~ the clerk will return the application to the applicant with notice of the information necessary to make the application complete.

(c) *Action.* The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council ~~shall approve~~ approves the license, the ~~administrator/city clerk/treasurer shall will~~ issue the license to the applicant. If the council denies the license, notice of the denial ~~shall will~~ be given to the applicant along with notice of the applicant's right to appeal the council's decision.

(d) *Term.* All licenses issued under this article shall be valid for one calendar year from July 1 through the following June 30. For any license issued after July 1 in any year, the license shall be valid from the date of issue through the following June 30.

(e) *Revocation or suspension.* Any license issued under this article may be revoked or suspended. In such case, the licensee may request or hearing or appeal as provided in sections 12-51 and 12-52.

(f) *Transfers.* All licenses issued under this article 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.

(g) *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 article.

(h) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

(i) *Renewals.* The renewal of a license issued under this article 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. The issuance of a license issued under this article 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.

(Ord. No. 67, § 3, 1-20-1998)

[\(j\) *Smoking.* Except as allowed under Minn. Stat. § 144.414, smoking is not permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco and tobacco related products is prohibited.](#)

● **Sec. 12-82. - Fees.**

No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be as listed on the appropriate license fee schedule.

(Ord. No. 67, § 4, 1-20-1998)

~~State Law reference— Authority to establish a license fee for sales to recover the estimated cost of enforcing the provisions of Minn. Stat. ch. 461, Minn. Stat. § 461.12, subd. 1.~~

● **Sec. 12-83. - Basis for denial.**

~~The following shall be grounds~~ [\(a\) Grounds](#) for denying the issuance or renewal of a license under this article; ~~however, except as may otherwise be provided by law, the existence of any particular grounds for denial does not mean that the city must deny the license; if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article.~~ [include but are not limited to the following:](#)

(1) The applicant is under the age of 18 years.

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision, or other regulation relating to tobacco, tobacco products or tobacco-related devices, [electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices.](#)

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco-related devices, [electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices](#) revoked within the preceding 12 months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding such a license.

(b) except as may otherwise be provided by law, the existence of any particular grounds for denial does not mean that the city must deny the license;

(c) if a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article;

(Ord. No. 67, § 5, 1-20-1998)

● **Secs. 12-84 — 12-110. - Reserved.**

● **DIVISION 4. - SALES RESTRICTIONS**

● **Sec. 12-111. - Prohibited sales.**

(a) It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product or products, tobacco-related device, ~~device~~ devices, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices:

(1) To any person under the age of 18 years.

(2) By means of any type of vending machine, except as may otherwise be provided in this article.

(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, tobacco product or products, tobacco-related device, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco-related device, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices between the licensee or the licensee's employee and the customer.

(4) By means of loosies.

(5) 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 tobacco products.

(6) By any other means, to any other person, or in any other manner or form prohibited by federal, state or local law, ordinance provision, or other regulation.

(b) Smoking and Sampling Prohibitions.

(1) Except for exceptions listed in Minn. Stat. § 144.4167, smoking tobacco shall be prohibited and no person shall smoke in public places and places of work, including outdoor and bar areas of restaurants. Except as provided in Minn. Stat. § 144.4167, subd. 4, tobacco sampling, including sampling of electronic delivery devices and products used in electronic delivery devices, is specifically prohibited within any indoor location in the city.

(2) To ensure that tobacco smoke or vapor electronic delivery devices does not enter public places and places of work and that persons entering such places are not exposed involuntarily to smoke or vapor, smoking and the use of electronic delivery devices are prohibited within twenty-five (25) feet of entrances, exits, open windows and ventilation intakes of public places and places of work. This prohibition does not apply to entrances and exits used solely in the event of an emergency and appropriately signed for that purpose.

(c) *Smoking Lounges.* Smoking lounges, hookah lounges and vapor lounges are prohibited within the city.

(Ord. No. 67, § 6, 1-20-1998)

~~State Law reference — Except for vending machines in facilities that cannot be entered at any time by persons younger than 18 years of age, no person shall sell tobacco products from vending machines, Minn. Stat. § 461.18, subd. 2; whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor, Minn. Stat. § 609.685, subd. 1(a).~~

● **Sec. 12-112. - Vending machines.**

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco-related devices by means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

(Ord. No. 67, § 7, 1-20-1998)

State Law reference — No person shall sell tobacco products from vending machines, except in facilities that cannot be entered at any time by persons younger than 18 years of age, Minn. Stat. § 461.18, subd. 2.

● **Sec. 12-113. - Self-service sales.**

~~It shall be unlawful for a licensee under this article to allow the sale of tobacco, tobacco products or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco-related device between the licensee or his clerk and the customer. All tobacco, tobacco products and tobacco-related devices, electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. ~~Any retailer selling tobacco, tobacco products or tobacco-related devices on January 20, 1998, shall comply with this section immediately upon the effective date of this article.~~~~

(Ord. No. 67, § 8, 1-20-1998)

~~State Law reference — Except for retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age, no person shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee, Minn. Stat. § 461.18, subsd. 1 and 3.~~

● **Sec. 12-114. - Responsibility.**

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products ~~or~~ tobacco-related devices or electronic cigarettes, electronic delivery devices or nicotine or lobelia delivery devices on the licensed premises; and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(Ord. No. 67, § 9, 1-20-1998)

● **Sec. 12-115. - Compliance checks and inspections.**

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years, but less than 18 years, to enter licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices ~~or~~ electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by city-designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco-related devices electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his employee and shall produce any identification, if any exists, for which he is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research or training purposes, or required for the enforcement of a particular state or federal law or other applicable law or regulation.

(Ord. No. 67, § 10, 1-20-1998)

State Law reference — A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with Minn. Stat. § 609.685. Compliance checks must involve minors over the age of 15, but under the age of 18, who, with the prior written consent of a parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority, Minn. Stat. § 461.12, subd. 5.

● **Sec. 12-116. - Other illegal acts.**

Unless otherwise provided, the following acts shall be a violation of this article:

(1) *Illegal sales.* It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices to any minor.

(2) *Illegal possession.* It shall be a violation of this article for any minor to have in his possession any tobacco, tobacco product or tobacco-related device electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices. This subsection shall not apply to minors lawfully involved in a compliance check.

(3) *Illegal use.* It shall be a violation of this article for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco-related device, electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices.

(4) *Illegal procurement.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco-related device, electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices; and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device, electronic cigarettes, electronic delivery devices, or nicotine or lobelia delivery devices. This subsection shall not apply to minors lawfully involved in a compliance check.

(5) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise his true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. No. 67, § 11, 1-20-1998)

~~State Law reference — Whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor, Minn. Stat. § 609.685, subd. 1(a); whoever furnishes tobacco or tobacco-related devices to a person under the age of 18 years is guilty of a misdemeanor, Minn. Stat. § 609.685, subd. 2; whoever, being under the age of 18, possesses, smokes, chews or otherwise ingests, purchases or attempts to purchase tobacco or tobacco-related devices is guilty of a petty misdemeanor, Minn. Stat. § 609.685, subd. 3.~~

Section 2. Effective Date. This ordinance shall be in full force and effective immediately upon its passage and publication.

ADOPTED by the City Council of Spring Park this _____ day of _____, 2019.

CITY OF SPRING PARK

By: _____
Jerome Rockvam, Mayor

ATTEST:

By: _____
Theresa Schyma, City Clerk