

ST. STEPHEN CITY CODE
CHAPTER 5: GENERAL REGULATIONS

ORDINANCE 52	REGULATION OF TOBACCO SALES.....	52-1
Section 52.01:	DEFINITIONS.....	52-1
Section 52.02:	LICENSE.....	52-2
Section 52.03:	LICENSE FEE.....	52-2
Section 52.04:	TRAINING PROGRAM.....	52-2
Section 52.05:	SIGNAGE.....	52-2
Section 52.06:	PROHIBITED ACTIVITIES.....	52-3
Section 52.07:	CIVIL PENALTIES.....	52-3
Section 52.08:	COMPLIANCE CHECKS.....	52-4
Section 52.09:	CRIMINAL PENALTY.....	52-4

ST. STEPHEN CITY CODE
CHAPTER 5: GENERAL REGULATIONS

ORDINANCE 52 REGULATION OF TOBACCO SALES

Section 52.01: DEFINITIONS. For purposes of this Ordinance, the following terms shall be defined in this manner:

Subd. 1: Tobacco. 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, or any component, part, or accessory of a tobacco product which includes tobacco products. Tobacco-containing products that can be ingested by any means, not just those that are smoked or chewed, which includes electronic cigarettes or “e-cigarettes” (battery-powered devices used to inhale doses of nicotine or non-nicotine vaporized solution) and tobacco mints or candies known as “dissolvables.” Cigars; cheroots; stogies; perique; and 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. Other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices. The definition of 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.

Subd. 2: Tobacco-Related Devices. Cigarettes papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

Subd. 3: Self-Service Vending Machines. Mechanical devices, which are accessible to the public and dispense for sale tobacco without the need of assistance by or the intervention of an employee of the license holder.

Subd. 4: Electronic Delivery Device. 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 shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

ST. STEPHEN CITY CODE
CHAPTER 5: GENERAL REGULATIONS

Subd. 5: Self-Service Merchandising. Open displays of tobacco, tobacco products, tobacco-related devices, or electronic delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or electronic delivery 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, tobacco-related device, or electronic delivery device 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.

Subd. 6: Smoking. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or inhaling or exhaling vapor from any electronic delivery device. Smoking shall include carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

Subd. 7: Tobacco Products Shop. Any licensed retail establishment that derives at least 90 percent of its revenue from tobacco, tobacco products, or electronic delivery devices and where no person under the age of eighteen (18) is present, or permitted to enter, at any time.

Section 52.02: LICENSE. No person shall keep for retail sale or sell at retail any tobacco at any place in the City without first obtaining a license from the City. Every person applying for a license to sell at retail any tobacco shall certify on the annual license application that the person has implemented a training program for employees regarding laws relating to the sale of tobacco and has trained all employees to comply with state laws regarding the sale of tobacco and tobacco-related products. Every license shall be conspicuously posted at the place for which the license is issued and shall be exhibited to any person upon request. The license holder shall be liable for the acts of employees acting in the scope of their employment.

Section 52.03: LICENSE FEE. The fee for every license shall be the amount as established by resolution of the City Council, and as from time to time modified by council resolution. Every license shall expire on December 31 of the year for which it is issued. If the license applicant is blind, the license fee shall be waived in accordance with Minn. Stat. '461.12.

Section 52.04: TRAINING PROGRAM. Every licensee shall have in effect a training program for employees that instructs them about the law prohibiting the sale of tobacco to minors, related civil and criminal penalties and the licensee's policy regarding the sale of tobacco products.

Section 52.05: SIGNAGE. Every person issued a license shall post in a conspicuous place signs informing the public that tobacco will not be sold to minors

ST. STEPHEN CITY CODE
CHAPTER 5: GENERAL REGULATIONS

Section 52.06: PROHIBITED ACTIVITIES.

Subd. 1: Underage Sale. No person shall sell, offer for sale, give away, furnish, or deliver any tobacco-related product and/or electronic delivery device to any person under eighteen (18) years of age.

Subd. 2: Self-Service. No person shall offer tobacco and/or electronic delivery device for sale in open displays which are accessible to the public without the intervention of a store employee. This subdivision shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related devices and where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

Subd. 3: Self-Service Vending Machines. No tobacco, tobacco-related devices, electronic delivery devices, or nicotine and lobelia delivery products may be sold by self-service vending machines, except where located in a facility to which access is restricted to persons eighteen (18) years of age or older, and in establishments that derive at least 90 percent of their revenue from the sale of tobacco.

Section 52.07: CIVIL PENALTIES.

Subd. 1: Violation by License Holder. Upon a violation by a licensee holding a retail tobacco license of any provision of this ordinance or any provision of a state law regulating the sale or furnishing of tobacco to minors, the City Council may impose civil penalties on the licensee in accordance with the schedule set forth below (or as otherwise determined by State statute):

- 1st violation..... Civil fine of \$ 75.00
- 2nd violation within 24 months of a prior violation Civil fine of \$200.00
- 3rd violation within 24 months of the two prior violations Civil fine of \$250.00
(and suspension of the license for not less than seven (7) days.)

Subd. 2: Violation by Non-License Holder. Any individual who sells or furnishes tobacco to a person under the age of eighteen (18) shall be charged an administrative penalty of \$50.00 (or as otherwise determined under state statute).

Subd. 3: Defense. It is a defense to the charge of selling tobacco to a person under the age of 18 years that the licensee or individual in making the sale requested, received and reasonably and in good faith relied upon proof of age identification in the form of a driver's license, state identification card, passport or military identification card.

Subd. 4: Hearing. No civil fine may be imposed hereunder, nor license suspended, until the City Council has conducted a hearing after having first given the licensee two weeks written notice setting forth the time and date of the alleged violation, and the time, date and place of the

ST. STEPHEN CITY CODE
CHAPTER 5: GENERAL REGULATIONS

public hearing. A decision that a violation occurred shall be in writing. Any civil fine assessed against a licensee pursuant to this section must be paid in full within thirty (30) days from receipt of written notification of the City Council imposition of the civil fine. Failure of a licensee to pay the fine within that time period shall result in license suspension until payment of the fine.

Section 52.08: COMPLIANCE CHECKS. The City shall conduct random, unannounced compliance checks at all retail licensee locations at least once a year to test compliance with state law. Compliance checks must involve minors between the ages of 15 and 18, with prior consent of their parent or guardian while under the direct supervision of a law enforcement officer or an employee of the licensing authority.

Section 52.09: CRIMINAL PENALTY. Any person who violates any provision of this ordinance is guilty of a misdemeanor.