

CITY CODE
City of
GRAND FORKS, NORTH DAKOTA

CHAPTER XXI: LICENSING AND BUSINESS AND TRADE REGULATIONS
ARTICLE 28. TOBACCO RETAILERS

21-2801. Definitions.

- (1) *City* shall mean the City of Grand Forks, North Dakota.
- (2) *Person* shall mean any individual, partnership, corporation or other business or other legal entity.
- (3) *Retail tobacco dealer* shall mean any individual, partnership, corporation or other business or other legal entity selling, offering, for sale, exposing for sale, or having in possession for sale, at retail, tobacco products.
- (4) *Tobacco products* shall mean, but is not limited to, cigarettes, cigars, smokeless tobacco, tobacco snuff, chewing tobacco, and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking.
- (5) *Vending machine* shall mean any kind of device or mechanical machine which, upon insertion of coins, tokens or other objects will release tobacco products in packages or otherwise.
(Ord. No. 3530, § 1, 7-17-95)

21-2802. License required.

No retail tobacco dealer, wholesaler, or distributor shall directly or indirectly or by means of any device, offer, sell, cause to be offered, expose for sale, dispose of, give away, exchange or barter for any tobacco product at any place in the city unless a retail tobacco dealer license therefore shall first have been obtained as provided in this article.
(Ord. No. 3530, § 1, 7-17-95)

21-2803. Application; issuance.

- (1) Any person desiring to obtain or renew a retail tobacco dealer's license shall file with the city auditor a written application which shall include the following:
 - A. The full name of the applicant.
 - B. The address of the applicant.
 - C. The location of the building or buildings, and any part or portion thereof, intended to be used by the applicant under such license.
 - D. A copy of the applicant's state license or a copy of the state license held by the owner of the vending machine if other than the applicant.

- E. The required license fee.
- F. The date of the application and the signature of the applicant.

(2) Upon receipt of a completed license application, the city auditor may approve and issue such license. In the event the city auditor determines that the application, based upon the information available, should instead be considered by the city council, the auditor shall place the matter before the council at its next scheduled meeting.

(3) A renewal application for such license must be filed with the city auditor prior to the first day of January of the year for which said license is to expire.

(4) Licenses shall not be transferable from one person to another.
(Ord. No. 3530, § 1, 7-17-95)

21-2804. License fee; renewal.

(1) The annual fee for the retail tobacco dealer license shall be as follows:

(A) For each location owned and operated by the applicant the sum of eighty-one dollars (\$81.00).

(B) For each vending machine owned and operated by the applicant the sum of twenty-two dollars (\$22.00).

(2) Every such license shall expire on December 31 bi-annually. The fee, if any, for the renewal of such license shall be paid to the city auditor prior to the first day of January of the year for which said license is to be issued.

(Ord. No. 3530, § 1, 7-17-95; Ord. No. 3762, § I, 1-4-99; Ord. No. 4096, § XLIX, 10-3-05; Ord. No. 4154, § XLVII, 9-5-06; Ord. No. 4252, § XLVI, 10-6-08)

21-2805. License shall be displayed.

Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

(Ord. No. 3530, § 1, 7-17-95)

21-2806. Restrictions.

(1) No license under this article shall be issued to an applicant at any place other than the applicant's established place of business.

(2) No license under this article shall be issued for or at a movable place of business.

(3) No person shall sell or dispense any tobacco products through the use of a vending machine, except as authorized by Grand Forks City Code Section 9-0217(3).

(4) No person shall sell, give or distribute any tobacco products to any person below the age of eighteen (18) years.

(5) Any person selling any tobacco products must require identification if he/she has any reason to believe that the proposed purchaser is less than eighteen (18) years of age.

(6) No person under the age of eighteen (18) years of age shall sell, possess, purchase, attempt to purchase, smoke or use tobacco products except as provided by Grand Forks City Code Section 9-0217(5).

(Ord. No. 3530, § 1, 7-17-95; Ord. No. 3538, § 2, 8-21-95; Ord. No. 3955, § XL, 12-2-02)

21-2807. Warning signs.

Signs informing the public of the age restrictions for the purchase of tobacco products shall be provided to every licensee by the city and shall be posted by every licensee at or near every display of tobacco products and on or upon every vending machine which offers tobacco products for sale.

(Ord. No. 3530, § 1, 7-17-95)

21-2808. Violations; penalty; notice; appeal.

(1) In addition to any penalties which may be imposed by a court of law, the mayor or a designated hearing officer, upon a finding that the licensee or its employee has failed to comply with this article, shall issue an order imposing upon the licensee for each violating location an administrative penalty, license suspension and/or revocation as follows:

- (A) For a first offense, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00).
- (B) For a second offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and the suspension of the license for not less than one (1) day and not more than five (5) days.
- (C) For a third offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and suspension of the license for not less than ten (10) days and not more than thirty (30) days.
- (D) For a fourth offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and suspension of the license for not less than one hundred eighty (180) days.
- (E) For a fifth offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and revocation of the license.

(F) Revocation of the license may also occur at any time upon a finding of a knowing and willful disregard or disobedience of this article.

(2) Except as otherwise provided herein, the licensee shall be notified by the city of the nature no more than thirty (30) days after the office of city attorney is notified of an alleged violation. However, if the alleged violation is identified during a compliance survey conducted by the city, the licensee shall be notified of the nature of charges no more than ten (10) days after the alleged violation.

(3) Any order imposing an administrative penalty, suspension, or revocation or suspension of a license shall be preceded by a hearing before the mayor or a designated hearing officer. A hearing notice shall be given to the licensee at least ten (10) days prior to the hearing, including notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

(4) Any order imposing an administrative penalty, suspension, or revocation may be suspended, in whole or in part, by the mayor or a designated hearing officer. In considering the suspension of these orders, the mayor or hearing officer shall take into account good faith efforts by the licensee to train and instruct employees, the apparent age of the purchaser, and other efforts by the licensee to comply with the intent of this article.

(5) The licensee may appeal the decision of the mayor or a designated hearing officer within ten (10) days of receiving notice of the city's action by filing a written notice of appeal with the city council. The filing of an appeal stays the action of the mayor or a designated hearing officer until the city council makes a final decision. The city council may affirm, reverse, or modify any order imposing an administrative penalty, license suspension or license revocation.

(Ord. No. 3530, § 1, 7-17-95; Ord. No. 3955, § XLI, 12-2-02)