

CITY OF APPLE VALLEY
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF APPLE VALLEY, MINNESOTA,
AMENDING TITLE XI, CHAPTER 115 OF THE CITY CODE REGULATING
TOBACCO, TOBACCO PRODUCTS, TOBACCO RELATED DEVICES, AND
NICOTINE/LOBELLA DELIVERY DEVICES

The City Council of Apple Valley ordains:

Section 1. Chapter 115 of the Apple Valley City Code is hereby amended by revising Section 115.14 to read as follows:

§ 115.14 UNLAWFUL SALE, PURCHASE OR POSSESSION.

Unless otherwise provided, the following acts shall be unlawful.

~~(A) *Illegal possession.* It is unlawful for any person under the age of 21 to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division shall not apply to persons under the age of 21 lawfully involved in a compliance check or fulfilling his or her duties as an employee of the licensee in making a retail sale.~~

~~(B) *Illegal purchase by underage person.* It shall be unlawful for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device. It shall be unlawful for any person under the age of 21 to purchase, attempt to purchase or possess a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined herein. This division shall not apply to underage persons lawfully involved in a compliance check.~~

~~(C)~~ (A) *Illegal purchase or procurement for underage person.* It shall be unlawful for any person to purchase or otherwise obtain for or provide to any person under the age of 21 any tobacco, tobacco product, or tobacco related device. It shall further be unlawful for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division shall not apply to person under the age of 21 lawfully involved in a compliance check.

~~(D)~~ (B) *Use of false identification.* It shall be unlawful for any person under the age of 21 to attempt to disguise his or her 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.

~~(E)~~ (C) *Illegal sale to underage person.* It shall be unlawful for any person to sell, obtain for or otherwise provide to any person under the age of 21 tobacco or a product containing or delivering nicotine or lobelia intended for human consumption, or any part of such product, that is not tobacco as defined in this chapter. This section shall not apply to a parent or legal guardian of a person under the age of 21 who obtained or provided to the person under the age of

21 such product if the product 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 the approved purpose.

~~(F)~~ (D) *Child resistant packaging required.* It is unlawful for a licensee hereunder to sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, that is not contained in "child-resistant packaging" as the term is defined and as is required in M.S. § 461.20.

Section 2. Chapter 115 of the Apple Valley City Code is hereby amended by revising Section 115.17 to read as follows:

§ 115.17 COMPLIANCE CHECKS AND INSPECTIONS.

(A) All licensed premises shall be open to inspection by the City during regular business hours. From time to time, but at least once per calendar year, the City shall conduct unannounced compliance checks to ensure compliance with the provisions of this chapter. Such compliance checks shall involve underage persons who are the age of 17 years, but less than 21 years, enter the licensed premises and purchase or attempt to purchase tobacco, tobacco products, or tobacco related devices.

(B) Underage persons used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. ~~Underage persons used for compliance checks shall not be in violation of any law prohibiting the purchase or attempted purchase, or the unlawful possession of tobacco, tobacco products, or tobacco related devices by an underage person when such items are obtained as a part of the compliance check.~~ No underage person used in compliance checks shall attempt to use a false identification misrepresenting the underage person's age, and shall answer all questions about the underage person's age asked by the licensee or licensee's employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit other or additional 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.

Section 3. Effective date. This ordinance shall take effect upon its passage and publication.

PASSED by the City Council this ___ day of _____, 2021.

Clint Hooppaw, Mayor

ATTEST:

Pamela J. Gackstetter, City Clerk