ORDINANCE NO. 1670

BEING AN ORDINANCE AMENDING CHAPTER 5.3 (TOBACCO REGULATIONS) OF THE COLUMBIA HEIGHTS CITY CODE TO REVISE PURPOSE AND INTENT, DEFINITIONS, LICENSE, PROHIBITED SALES, LICENSE HOLDER RESPONSIBILITY, COMPLIANCE CHECKS AND INSPECTIONS, AND VIOLATIONS AND PENALTIES

The City of Columbia Heights does ordain:

Section 1
5.301 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.301 PURPOSE AND INTENT.

Because the City recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to many persons under the age of 21 years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco-related devices, and electronic cigarette devices, and such sales, possession, and use are violations of violates both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 21 years and that those persons who reach the age of 21 years without having started smoking are significantly less likely to begin smoking; youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because smoking commercial tobacco use has been shown to be the cause of several many serious health problems which subsequently place a financial burden on all levels of government; this article shall be ordinance is intended to regulate the sale, possession and use of commercial tobacco, tobacco products, tobacco-related devices, and electronic cigarette delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect minors youth and young adults against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, and electronic cigarette devices and initiation, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.

(Ord. 1371, passed 5-11-98; Am. Ord. 1616, passed 10-27-14)

Section 2
5.302 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.302 DEFINITIONS.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHILD-RESISTANT PACKAGING. Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

CIGAR. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as it may be amended from time to time.
COMPLIANCE CHECKS. The system the city of Columbia Heights uses to investigate and ensure that those authorized to sell tobacco, tobacco licensed products, tobacco-related devices, and electronic cigarette devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors authorized by this article—persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic cigarette devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by the City or other units of government for the educational, research, and training purposes or for investigating or enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco licensed products, tobacco-related devices, and electronic cigarette devices.

ELECTRONIC DELIVERY DEVICE. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigs, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

FLAVORED PRODUCT. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether expressed or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether opened 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.

INDIVIDUALLY PACKAGED. 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.
**LICENSED PRODUCTS.** The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

**MINOR.** Any natural person who has not yet reached the age of 18 years.

**MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a kiosk, 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 licensed for over-the-counter sales transactions.

**NICOTINE OR LOBELIA DELIVERY PRODUCT.** Any product containing or delivering nicotine or lobelia, whether natural or synthetic, intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. NICOTINE OR LOBELIA DELIVERY PRODUCT does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drug,” “devices,” or “combination,” as defined in the Federal Food, Drug, and Cosmetic Act.

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco licensed products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to tobacco product shops, liquor stores, grocery stores, convenience stores, bars, and restaurants.

**SALE.** Any transfer of goods for money, trade, barter or other consideration.

**SAMPLING, TOBACCO.** The lighting, inhalation, or combination thereof of tobacco, tobacco products, electronic delivery devices, nicotine or lobelia delivery products and products used in electronic delivery devices and nicotine or lobelia delivery products prior to the sale of such product. As of January 1, 2022, no Sampling shall be permitted within a building at any time.

**SELF-SERVICE MERCHANDISING DISPLAY.** Open displays of tobacco, tobacco licensed products or tobacco related devices in any manner where any person shall have has access to the tobacco, tobacco licensed products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee’s employee, and where a physical exchange of the licensed product from the licensee or the licensee’s employee to the customer is not required in order to access the licensed products. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.
SMOKING. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. SMOKING also includes carrying or using an activated electronic delivery device.

SMOKE SHOP. A retail establishment that has obtained an appropriate license, in which greater than 90% of the business’s gross revenue must be from the sale of tobacco, tobacco products or smoking-related accessories.

TOBACCO or TOBACCO PRODUCTS. Any substance or item containing tobacco leaf, 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 including but not limited to: cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff; snuff flowers; flour; cavendish; shorts; plug and twist tobaccos; dipping; fine cut and other chewing tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, leaf prepared in such manner as to be suitable for chewing, sniffing or smoking. TOBACCO PRODUCTS shall also refer to electronic cigarettes, vapor devices and related products. Tobacco does not include any nicotine cessation product that has been authorized by the U.S. Food and Drug Administration to be marketed and for sale as “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.

TOBACCO PRODUCT SHOP. A retail establishment that has obtained an appropriate license from the city that

1. Prohibits persons under 21 from being present or entering at all times;
2. Derives at least 90 percent of its gross revenues from the sale of licensed products; and
3. Meets all of the following building or structural criteria:
   a. Shares no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass-throughs to the other business or retailer;
   b. Shares no walls with, and has no part of its structure directly adjoined to, another licensed tobacco retailer; and
   c. Is accessible by the public only by an entrance door opening directly to the outside.

TOBACCO-RELATED DEVICES. Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products, 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-related devices include components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

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

(Ord. 1371, passed 5-11-98; Am. Ord. 1570, passed 9-28-09; Am. Ord. 1616, passed 10-27-14)

Section 3

5.303 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.303 LICENSE.

(A) License required. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device licensed product without first having obtained a license to do so from the city City.

(B) Smoke Tobacco product shop license. No person shall operate a smoke tobacco product shop without first having obtained a smoke tobacco product shop license to do so from the city City. To qualify for a tobacco product shop license, the retail establishment must:

1. Prohibit persons under the age of 21 from being present or entering at all times;
2. Derive at least 90 percent of its gross revenues from the sale of licensed products; and
3. Meet all of the following building or structural criteria:
   a. Share no wall with, and has no part of its structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass-throughs to the other business or retailer;
   b. Share no walls with, and has no part of its structure directly adjoined to, another licensed tobacco retailer; and
   c. Is accessible by the public only by an entrance door opening directly to the outside.

At any given time, there shall be no more than three smoke tobacco product shops, all with appropriate licenses, throughout the city. Currently existing smoke tobacco product shop establishments should be granted the first preference to renew their smoke tobacco product shop licenses if they choose to do so. Effective January 1, 2022, indoor sampling for all smoke shops shall be prohibited. Tobacco product shops must provide financial records documenting annual gross sales, upon request by the City.

(C) Application. An application for a license to sell tobacco, tobacco licensed products, or tobacco related devices shall be made on a form provided by the city City. The application shall contain the full name of the applicant, applicant’s date of birth, the applicant’s residential and business addresses and telephone numbers, the name of the business for which the license is sought, the name of the business’s operator, and any additional information the city City deems necessary. Upon receipt of a completed application, the Clerk shall forward the application to the Police Department for a background and record check prior to formal review by the City Council. If the Clerk shall determine that an application is incomplete, the Clerk shall return the application to the applicant with notice of the information necessary to make the application complete.

(D) Action. The City 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 City Council shall approve the license, the Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

(E) **Term.** All licenses issued under this article shall follow the calendar year with an expiration date of December 31 of each year and are not pro-rated.

(F) **Revocation or suspension.** Any license issued under this article may be revoked or suspended as provided in § 5.3135.311.

(G) **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. Change of location or applicant will be required to be treated as a new applicant. **The transfer of any license to another location or person is prohibited.**

(H) **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.

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

(J) **Renewals.** The renewal of a license issued under this section 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.

(K) **Issuance as privilege and not a right.** 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.

(L) **Smoking prohibited.** Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.

(M) **Samples prohibited.** No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of licensed products as a free donation is prohibited.

(Ord. 1371, passed 5-11-98; Am. Ord. 1570, passed 9-28-09; Am. Ord. 1616, passed 10-27-14; Am. Ord. 1652, passed 10-8-18) Penalty, see § 5.3135.311

**Section 4**

5.304 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.304 **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 established in the city's **City's** schedule of fees.
(Ord. 1371, passed 5-11-98) Penalty, see § 5.313.

Section 5
5.305 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.305 BASIS FOR DENIAL OF LICENSE.

(A) Grounds for denying the issuance or renewal of a license under this article includes, but is not limited to, the following:

(1) The applicant is under the age of 21 years.

(2) The applicant, or any employee thereof, 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 or tobacco licensed products, or tobacco related devices.

(3) The applicant has had a license to sell tobacco, tobacco licensed products, or tobacco related 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) However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that obligate the city to 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. The City will provide the license holder with notice of the revocation, along with information on the right to appeal.

(Ord. 1371, passed 5-11-98) Penalty, see § 5.313.

Section 6
5.306 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.306 PROHIBITED SALES.

(A) In general. No person shall be a violation of this article for any person, or employee or responsible party, to sell or offer to sell any tobacco, tobacco licensed product, or tobacco related device:

(A) To any person under the age of 21 years.

(B) By means of any type of vending machine.
(C2) 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 premise in order to receive the tobacco, tobacco product, or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee’s employee, and the customer display. All licensed products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. This division shall not apply to retail stores which derive at least 90% of their revenue from tobacco and tobacco related products and which cannot be entered at any time by persons younger than 21 years of age tobacco product shops.

(D3) By means of loosies as defined in § 5.302.

(E4) Containing opium, morphine, jimpson 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.

(F5) By any other means, to any other person, or in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

(B) Legal age. No person shall sell any licensed product to any person under the age of 21.

(1) Age verification. Licensees must verify by means of government-issued photographic identification containing the bearer’s date of birth that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(2) Signage. Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently in plain view at all times at each location where licensed products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(C) Flavored products. No person shall sell or offer for sale any flavored products. This prohibition does not apply to licensed tobacco product shops.

(D) Liquid packaging. No person shall 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, in packaging that is not child resistant. Upon request by the City, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

(Ord. 1371, passed 5-11-98; Am. Ord. 1513, passed 9-25-06) Penalty, see § 5.311

Section 7
5.307 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.309 5.307 LICENSE HOLDER RESPONSIBILITY.

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. It shall be the license holder's responsibility to provide training to any employee conducting tobacco sales and/or sales of tobacco-related licensed products and devices and to document proof of such training to be provided upon request by any enforcing agent of the city.

(Ord. 1371, passed 5-11-98) Penalty, see § 5.313 5.311

Section 8
5.308 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.310 5.308 COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall must be open to inspection by the city police law enforcement or other authorized city officials during regular business hours. From time to time, but at least once per year, the city shall City will conduct compliance checks. by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 21 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related 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 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. In accordance with state law, the City will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase licensed products. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel.

(Ord. 1371, passed 5-11-98) Penalty, see § 5.313 5.311

Section 9
5.309 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.311 5.309 OTHER ILLEGAL ACTS.
Unless otherwise provided, the following acts shall be a violation of this article:

(A) **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 to any minor.

(B) **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. This division (B) shall not apply to minors lawfully involved in a compliance check.

(C) **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.

(DA) **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, and it shall be a violation of this article for any person *aged 21 or older* to purchase or otherwise obtain such items **licensed products** on behalf of a minor *person under the age of 21*. It shall further be a violation for any person *aged 21 or older* to sell or otherwise provide any tobacco, tobacco **licensed** product, or tobacco related device to any minor *person under the age of 21*, and it shall further be a violation to coerce or attempt to coerce a minor *person under the age of 21* to illegally purchase or otherwise obtain or use any tobacco, tobacco **licensed** products, or tobacco related device. This division shall not apply to minors *individuals* lawfully involved in a compliance check.

(EB) **Use of false identification.** It shall be a violation of this article for any minor *person* to attempt to disguise his *their* 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.

(F) **Smoking and sampling indoors are prohibited.** No person shall smoke indoors in a public place, indoors at a public meeting, or indoors at place of employment. This subdivision also prohibits the Sampling of tobacco, tobacco products, electronic delivery devices, nicotine or lobelia delivery products and products used in electronic delivery devices and nicotine or lobelia delivery products.

(Ord. 1371, passed 5-11-98) **Penalty, see § 5.313 5.311**

**Section 10**

5.310 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.312 **5.310 EXCEPTIONS AND DEFENSES.**

Nothing in this article shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor *person under the age of 21* 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.
Section 11

5.311 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.311 Violations and Penalties.

(A) Violations.

(1) 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 their right to be heard on the accusation.

(2) 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.

(3) Hearing Officer. The City Council, or representative designated by the City Council, shall serve as the hearing officer.

(4) Decision. If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under division (B) of this section, 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.

(5) Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

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

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

(B) Administrative penalties.

(1) Licensees. Any licensee found to have violated this article, or whose employee shall have violated this article, shall be charged an administrative fine of $25,000 for a first violation of this article; $200,000 for a second offense at the same licensed premises within a 24-month period; and $250,000 for a third or subsequent offense at the same location within a 36-month period. In addition, after the third offense, the license shall be suspended for not less than seven days. Upon a fourth violation within a 36-month period, the license will be revoked.
(2) Other individuals. Other individuals, other than minors person under the age of 21 regulated by division (B)(3) of this section, found to be in violation of this article shall may be charged an administrative fee of $50.

(3) Minors. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. Such administrative fine or other penalty shall be established by City Council ordinance upon the City Council’s consultation with interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. Persons under the age of 21. Persons under the age of 21 who purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties or remedies such as tobacco-related education classes, diversion programs, community services, or another non-monetary, civil penalty that the City determines to be appropriate. The City Council will consult educators, parents, guardians, persons under the age of 21, public health officials, court personnel, and other interested parties to determine an appropriate remedy for persons under the age of 21 in the City in the best interest of the underage person. The remedies for persons under 21 who use a false identification to purchase or attempt to purchase licensed products may be established by ordinance and amended from time to time.

(4) Statutory penalties. If the administrative penalty for violations against licensed retailers under Section 11(B)(1) authorized to be imposed by Minn. Stat. § 461.12, as it may be amended from time to time, differ from that established in this section, then the higher penalty will prevail.

(C) Misdemeanor. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged second violation of this article ordinance by a person 21 years of age or older within five years of a previous conviction under the ordinance.

(Ord. 1371, passed 5-11-98)

Section 12

5.312 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.312 SEVERABILITY.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidation section or provision.

Section 13

5.313 of the Columbia Heights City Code is hereby amended to read as follows, to wit:

§ 5.313 EFFECTIVE DATES.

Section 5.303 paragraphs (L) and (M), and Section 5.306 paragraph (C) of this article are effective January 1, 2022. The remainder of this ordinance becomes effective 30 days after passage.
Section 14
This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: September 27, 2021
Offered by: Buesgens
Seconded by: Novitsky
Roll Call: All Ayes

Second Reading: October 11, 2021
Offered by: Jacobs
Seconded by: Novitsky
Roll Call: All Ayes, Buesgens Absent

Date of Passage: October 11, 2021

Attest:

Sara Ion, City Clerk/Council Secretary

Amáda Márquez Simula, Mayor
SUMMARY OF ORDINANCE NO. 1670

AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE TO REVISE PURPOSE AND INTENT, DEFINITIONS, LICENSE, PROHIBITED SALES, LICENSE HOLDER RESPONSIBILITY, COMPLIANCE CHECKS AND INSPECTIONS, AND VIOLATIONS AND PENALTIES OF TOBACCO REGULATIONS

The City Council for the City of Columbia Heights, Minnesota adopted Ordinance No. 1670 on October 11, 2021.

The purposes of this ordinance are to update Purpose and Intent of Chapter 5.3, add, amend, and eliminate definitions, add qualifications for retail establishments interested in a tobacco product shop license, restrict the sale of all flavored tobacco products to licensed tobacco product shops only, require child-resistant packaging for liquid products being sold, increase license holder responsibility, fees, and penalties, remove criminal or monetary penalties for persons under the age of 21 who purchase or attempt to purchase licensed products, and add section for Severability and Effective Dates.

This is a summary of Ordinance No. 1670. A copy of the entire text of the Ordinance is available for public inspection during regular office hours at City Hall, by standard or electronic mail, or at www.columbiaheightsmn.gov.

Attest:

Sara Ion, City Clerk/Council Secretary
AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA ss
COUNTY OF ANOKA

Karen Nelson being duly sworn on an oath, states or affirms that he/she is the Publisher's Designated Agent of the newspaper(s) known as:

BSLP Col Hght Frid Life

with the known office of issue being located in the county of:

ANOKA

with additional circulation in the counties of:

ANOKA

and has full knowledge of the facts stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.

(B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 10/22/2021 and the last insertion being on 10/22/2021.

MORTGAGE FORECLOSURE NOTICES

Pursuant to Minnesota Stat. §580.033 relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By: [Signature]
Designated Agent

Subscribed and sworn to or affirmed before me on 10/22/2021 by Karen Nelson.

By: [Signature]
Notary Public

CITY OF COLUMBIA HEIGHTS
SUMMARY OF ORDINANCE NO. 1670
AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE
TO REVISE PURPOSE AND INTENT, DEFINITIONS, LICENSE, PROHIBITED SALES, LICENSE HOLDER RESPONSIBILITY, COMPLIANCE CHECKS AND INSPECTIONS, AND VIOLATIONS AND PENALTIES OF TOBACCO REGULATIONS

The City Council for the City of Columbia Heights, Minnesota adopted Ordinance No. 1670 on October 11, 2021.

The purposes of this ordinance are to update Purpose and Intent of Chapter 5.3, add, amend, and eliminate definitions, add qualifications for retail establishments interested in a tobacco product shop license, restrict the sale of all flavored tobacco products to licensed tobacco product shops only, require child-resistant packaging for liquid products being sold, increase license holder responsibility, fees, and penalties, remove criminal or monetary penalties for persons under the age of 21 who purchase or attempt to purchase licensed products, and add section for Severability and Effective Dates.

This is a summary of Ordinance No. 1670. A copy of the entire text of the Ordinance is available for public inspection during regular office hours at City Hall, by standard or electronic mail, or at www.columbiaheights.mn.gov.

Amada Marquez Simula, Mayor

ATTEST:
Sara ion,
City Clerk/Council Secretary
Published in The Life
October 21, 2021
1175863

Rate Information:
(1) Lowest classified rate paid by commercial users for comparable space:
$22.00 per column inch

Ad ID 1175863