ORDINANCE NO. 1667

BEING AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE TO UPDATE THE LEGAL AGE REQUIRED TO PURCHASE TOBACCO, AND PROHIBIT SMOKING AND SAMPLING INDOORS

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 many persons under the age of 18-21 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 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 18-21 years and that those persons who reach the age of 18-21 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 article shall be intended to regulate the sale, possession and use of tobacco, tobacco products, tobacco related devices, and electronic cigarette 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, tobacco related devices, and electronic cigarette devices, 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.

COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco 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 as authorized by this article. 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 other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, tobacco related devices, and electronic cigarette devices.

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.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarette.

**MINOR.** Any natural person who has not yet reached the age of 18-21 years.

**MOVEABLE PLACE OF BUSINESS.** 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.

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores 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 paraphernalia, tobacco related products, or electronic cigarette devices for the purpose of testing a tobacco product, 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.** Open displays of tobacco, tobacco products or tobacco related 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 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.

**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, 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 flowers, cavendish, shorts, plug and twist tobaccos, dipping 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 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.

**VENDING MACHINE.** 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. 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 without first having obtained a license to do so from the city.

(B) **Smoke shop license.** No person shall operate a smoke shop without first having obtained a smoke shop license to do so from the city. At any given time, there shall be no more than three smoke shops, all with appropriate licenses, throughout the city. Currently existing smoke shop establishments should be granted the first preference to renew their smoke shop licenses if they choose to do so. **Effective January 1, 2022, indoor sampling for all smoke shops shall be prohibited.**

(C) **Application.** An application for a license to sell tobacco, tobacco products, or tobacco related 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 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, he 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 § 5.313.

(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.

(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.

(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 § 5.313

**Section 4**

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 18 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 products, or tobacco related devices.

3) The applicant has had a license to sell tobacco, tobacco 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 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. 1371, passed 5-11-98) Penalty, see § 5.313

**Section 5**

5.306 of the Columbia Heights City Code is hereby amended to read as follows, to wit:
It shall be a violation of this article for any person, or employee or responsible party, to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

(A) To any person under the age of 18-21 years.

(B) By means of any type of vending machine.

(C) 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. 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 18-21 years of age.

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

(E) 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.

(F) 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.

(Ord. 1371, passed 5-11-98; Am. Ord. 1513, passed 9-25-06) Penalty, see § 5.313

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

§ 5.307 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 the means of a vending machine. This section does not apply to vending machines in facilities that cannot be entered at any time by persons younger than 18-21 years of age.

(Ord. 1371, passed 5-11-98; Am. Ord. 1513, passed 9-25-06) Penalty, see § 5.313

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

§ 5.308 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 where by 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 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 at the time this article is adopted shall comply with this section within 90 days following the effective date of this article. This section shall not apply to retail stores which derive at least 80% 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.

(Ord. 1371, passed 5-11-98; Am. Ord. 1513, passed 9-25-06) Penalty, see § 5.313

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

§ 5.310 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 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 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.

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

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

§ 5.311 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.
(D) **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 to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor, and it shall further be a violation to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This division shall not apply to minors lawfully involved in a compliance check.

(E) **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.

(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

**Section 10**

This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: May 24, 2021
Offered by: Novitsky
Seconded by: Jacobs
Roll Call: All Ayes

Second Reading: June 14, 2021
Offered by: Novitsky
Seconded by: Murzyn, Jr.
Roll Call: All Ayes

Date of Passage: June 14, 2021

Attest: 

Nicole Tingley City Clerk / Council Secretary
SUMMARY OF ORDINANCE 1667

AN ORDINANCE AMENDING CHAPTER 5.3 OF THE COLUMBIA HEIGHTS CITY CODE TO UPDATE THE LEGAL AGE REQUIRED TO PURCHASE TOBACCO, AND PROHIBIT SMOKING AND SAMPLING INDOORS

The City Council for the City of Columbia Heights, Minnesota adopted Ordinance No. 1667 on June 14, 2021.

The purposes of this ordinance are to set the legal minimum age to purchase tobacco within the City to 21, and to prohibit indoor smoking and sampling.

This is a summary of Ordinance No. 1667. 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.columbiaheightsminn.gov.

Attest: [Signature]

Nicole Tingley, City Clerk/Council Secretary

[Signature]

Amaña Márquez Simula, Mayor
STATE OF MINNESOTA
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 06/25/2021 and the last insertion being on 06/25/2021.

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: ____________________________
Designated Agent

Subscribed and sworn to or affirmed before me on 06/25/2021 by Karen Nelson.

_______________________________
Notary Public

DIANE H ERICKSON
NOTARY PUBLIC
MINNESOTA
My Commission Expires Jan. 31, 2024

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

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