

## CHAPTER 3

### Cigarette and Tobacco Products License

- 6-3-1 Cigarette and Tobacco Products Retailer license
- 6-3-2 Withholding Licenses

#### SEC. 6-3-1 CIGARETTE, TOBACCO AND VAPOR PRODUCTS RETAILER LICENSE.

- (a) **Definitions.** For the purpose of this Section, the following definitions shall apply:
  - (1) *Vapor product* means 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. The definition of Vapor product includes the electronic delivery device used to deliver nicotine, lobelia, or any other substance intended for human consumption to simulate smoking whether or not sold separately. The definition of Vapor product 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.
- (b) **License Required.** No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes, tobacco products or vapor products to any person not holding a license as herein provided without first obtaining a license from the City Clerk.
- (b) **Application for License.** Every person, desiring a license under this Section, shall complete and file with the City Clerk a written application therefor, containing:
  - (1) Name of the licensee;
  - (2) Specific description of the premises where such business is to be conducted;
  - (3) A statement specifying whether the licensee will sell, exchange, barter, dispose of, or give away cigarettes and tobacco products over the counter, or in a vending machine, or both.

- (4) A statement specifying whether the licensee seeks to include a license to sell, exchange, barter, dispose of, or give away vapor products.
- (c) **Issuance and Term of License, Fee.** Upon the filing of a proper written application with the City Clerk, and the payment of the fee established herein, a license shall be issued on July 1 of each year or when applied for and continue in force until the following June 30 unless sooner revoked. The applicant shall pay to the City Clerk a license fee of not less than \$5 nor more than \$100 per year.
- (d) **License Not Transferable.** Licenses issued under this Chapter shall not be transferable from one person to another nor from one premises to another.
- (e) **Records.** Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for 2 years in such a manner as to ensure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.
- (f) **Penalties.**
- (1) Any person violating this chapter shall be fined not more than \$100 nor less than \$25 for the first offense and not more than \$200 nor less than \$25 for the 2nd or subsequent offense. If upon such 2nd or subsequent violation, the person so violating this section was personally guilty of a failure to exercise due care to prevent violation thereof, the person shall be fined not more than \$300 nor less than \$25 or imprisoned not exceeding 60 days or both. Conviction shall immediately terminate the license of the person convicted of being personally guilty of such failure to exercise due care and the person shall not be entitled to another license hereunder for a period of 5 years thereafter, nor shall the person in that period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license.
- (2) Any person who knowingly provides materially false information in an application for a cigarette and tobacco products retailer license under this section may be required to forfeit not more than \$1,000.
- (g) **Severability.** In the event any section, subsection, clause, phrase or portion of this chapter is for any reason held illegal, invalid or unconstitutional by any court of

competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

State Law Reference: Section 134.65, Wis. Stats.

**SEC. 6-3-2**                      WITHHOLDING LICENSES.

- (a) **Municipal Debts.** Any license granted under this ordinance shall be withheld if the applicant owes delinquent or unpaid taxes, assessments, water or sewer charges or other claims to the City of Thorp.
- (b) **Municipal Forfeitures.** Any license granted under this ordinance shall be withheld if the applicant has failed to pay overdue municipal forfeitures.