

**CITY OF CARLOS
COUNTY OF DOUGLAS, MINNESOTA**

ORDINANCE NO. 2025-12-11

**AN ORDINANCE AMENDING THE CARLOS CITY CODE TITLE XI, CHAPTER 114 REGARDING TOBACCO
REGULATIONS**

The City Council of the City of Carlos, Douglas County, Minnesota hereby ordains (new material is underlined; deleted material is lined out; sections which are not proposed to be amended are omitted, sections which are only proposed to be re-numbered are only set forth below as to their numbers and title):

SECTION 1. Administration. The City of Carlos City Code, Section 114.01, Adoption of State Law by Reference, shall be renamed Purpose and Intent and amended as follows.

114.01 Purpose and Intent-Adoption of State Law by Reference.

~~Subdivision 1. Authorization: A statutory city (such as Carlos, MN) is authorized to regulate the retail sale of tobacco, tobacco-related devices, and electronic delivery devices as defined in section 609.685 and section 609.6855 to establish a license fee for sales to recover the estimated cost of enforcing this chapter.~~

~~Subdivision 2. Administrative Penalties for Licensees: If a licensee or employee of a licensee sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or tobelia delivery products to a person under 21 years of age, or violates any provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation. For a third or any subsequent violation at the same location within 36 months after the initial violation, an administrative penalty of \$1,000 must be imposed, and the licensee's authority to sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or tobelia delivery products at that location must be suspended for not less than seven days and may be revoked. No suspension, revocation, or other penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.~~

~~Subdivision 3. Administrative penalty for sales and furnishing; individuals: An individual who sells, gives, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or tobelia delivery products to a person under the age of 21 years may be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.~~

~~Subdivision 4. Alternative penalties for use of false identification; persons under age 21: The licensing authority shall consult with interested persons, as applicable, including but not limited to educators, parents, guardians, persons under the age of 21 years, and representatives of the court system to develop alternative penalties for persons under the age of 21 years who purchase, or attempt to purchase, tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products using a driver's license, permit, Minnesota identification card, or any other type of false identification to misrepresent the person's age, in violation of section 609.685 or 609.6855. The licensing authority and the interested persons shall consider a variety of alternative civil penalties, including, but not limited to, tobacco-free education; tobacco cessation programs; notice to schools and parents or guardians; community service; and court diversion programs. Alternative civil penalties developed under this subdivision shall not include fines or monetary penalties.~~

~~Subdivision 5. Compliance checks: A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855. Compliance checks conducted under this subdivision must involve persons at least 17 years of age, but under the age of 21, who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The age requirements for persons participating in compliance checks under this subdivision shall not affect the age requirements in federal law for persons participating in federally required compliance checks of these locations.~~

~~Subdivision 6. Defense: It is an affirmative defense to the charge of selling tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.~~

~~Subdivision 7. Judicial review: Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure as provided in section 462.361.~~

~~Subdivision 8. Notice to commissioner: The licensing authority under this section shall, within 30 days of the issuance of a license, inform the commissioner of revenue of the licensee's name, address, trade name, and the effective and expiration dates of the license. The commissioner of revenue must also be informed of a license renewal, transfer, cancellation, suspension, or revocation during the license period.~~

- a. Findings and Purpose. Because the City of Carlos recognizes that the sale of commercial tobacco products, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 21 violates both state and federal law; and because studies, which the city accepts and adopts, have shown that 37.9 percent of Minnesota high school students have tried a commercial tobacco product; and because nearly 90 percent of people who smoke begin smoking before they have reached the age of 18 years, and 99 percent of smokers first tried smoking before age 26; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used menthol,

mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government; and because tobacco control measures save Minnesota billions in healthcare and productivity costs, this ordinance is intended to regulate the sale of commercial tobacco products, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws to protect youth and young adults against the serious health effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minn. Stat. § 144.391, as it may be amended from time to time.

b. Authority and Jurisdiction. The City of Carlos has the authority to adopt this ordinance pursuant to:

1. Minn. Stat. §461.12 regarding the authority to regulate the retail sale of tobacco, tobacco related devices, and electronic delivery devices as defined in section 609.685 and section 609.6855 to establish a license fee for sales to recover the estimated cost of enforcing this chapter, as it may be amended from time to time.

SECTION 2. Amendment. The City of Carlos City Code, Section 114.02, Definitions, shall be added as follows.

114.02 Definitions.

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

- a) 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.
- b) 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.
- c) COMPLIANCE CHECKS. The system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. COMPLIANCE CHECKS may also be conducted by the city or other units of government for

educational, research, and training purposes or for investigating or enforcing Tribal, federal, state, or local laws and regulations relating to licensed products.

- d) DELIVERY SALE. The sale of any licensed product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. DELIVERY SALE includes but is not limited to the sale of any licensed product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. DELIVERY SALE includes delivery by licensees or third parties by any means, including curbside pick-up.
- e) 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-cigars, 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.
- f) 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 express or implied, made or disseminated by the manufacturer or retailer 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.
- g) IMITATION TOBACCO PRODUCT. Any edible non-tobacco product designed to resemble a tobacco product, or any non-edible tobacco product designed to resemble a tobacco product and intended to be used by children as a toy. IMITATION TOBACCO PRODUCT includes, but is not limited to, candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, and shredded beef jerky in containers resembling tobacco snuff tins. IMITATION TOBACCO PRODUCT does not include electronic delivery devices or nicotine or lobelia delivery products.

- h) INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open 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.
- i) LICENSED PRODUCTS. The term that collectively refers to any tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery product.
- j) LOOSIES. The common term used to refer to single 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.
- k) MOVEABLE PLACE OF BUSINESS. Any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.
- l) 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 “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.
- m) PHARMACY. A place of business at which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.
- n) RETAIL ESTABLISHMENT. Any place of business where licensed products are available for sale to the general public. RETAIL ESTABLISHMENT includes, but is not limited to, grocery stores, tobacco product shops, convenience stores, liquor stores, gasoline service stations, bars, and restaurants.
- o) SALE. Any transfer of goods for money, trade, barter, or other consideration.
- p) SELF-SERVICE DISPLAY. The open display of licensed products in a retail establishment in any manner where any person has access to the licensed products 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 to access the licensed products.

- q) 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.
- r) TOBACCO PRODUCT. Any product containing, made, or derived from commercial 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; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of commercial tobacco. A TOBACCO 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 “drugs,” “devices,” or “combination products,” as defined in the Federal Food, Drug, and Cosmetic Act.
- s) TOBACCO-RELATED DEVICE. Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. TOBACCO-RELATED DEVICE includes components of tobacco-related devices or tobacco products which may be marketed or sold separately. TOBACCO-RELATED DEVICES may or may not contain tobacco.
- t) VENDING MACHINE. Any mechanical, electric or electronic, or other type of device that dispenses licensed products upon payment by any form by the person seeking to purchase the licensed product.
- u) YOUTH-ORIENTED FACILITY. Any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. Youth-oriented facility includes, but is not limited to, schools, playgrounds, recreation centers, and parks.

SECTION 3. Amendment. The City of Carlos City Code, Section 114.03, License, shall be added as follows.

114.03 License.

- a) License required. No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city.
- b) Application. An application for a license to sell licensed products must be made on a form provided by the city. The application must 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 City Clerk will forward the application to the City Council for action at its next regularly scheduled meeting. If the City Clerk determines that an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.

- c) Action. The City Council may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If the City Council approves the application, the City Clerk will issue the license to the applicant. If the City Council denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.
- d) Term. All licenses issued are valid for one calendar year from the date of issue.
- e) Revocation or suspension. Any license issued may be suspended or revoked following the procedures set forth in Section 114.12.
- f) Transfers. All licenses issued are valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location or person is prohibited.
- g) Display. All licenses must be posted and displayed at all times in plain view of the general public in the retail establishment.
- h) Renewals. The renewal of a license issued under this ordinance will be handled in the same manner as the original application. The request for a renewal must be made at least 30 days, but no more than 60 days, before the expiration of the current license.
- i) Issuance is a privilege and not a right. The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.
- j) Instructional program. Licensees must complete and ensure that all employees complete a training program on the legal requirements related to the sale of licensed products and the possible consequences of license violations. Any training program must be pre-approved by the city. Licensees must maintain documentation demonstrating their compliance and must provide this documentation to the city at the time of renewal, or whenever requested to do so during the license term.

- k) Minimum clerk age. Individuals employed by a licensed retail establishment under this ordinance must be at least 18 years of age to sell licensed products.
- l) Maximum number of licenses. The maximum number of licenses issued by the city at any time is limited to four (4). When the maximum number of licenses has been issued, the city may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid city license will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.
- m) Proximity to youth-oriented facilities. No new or renewed license will be granted to any person for a retail establishment location that is within 250 feet of a youth oriented facility, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a youth-oriented facility.
- n) Proximity to other licensed retailers. There are no proximity restrictions to other retail establishment locations.
- o) Pharmacies ineligible for licensure. No new or renewed license will be granted to a pharmacy or any retail establishment that operates an on-site pharmacy.
- p) 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.
- q) 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.

SECTION 4. Amendment. The City of Carlos City Code, Section 114.04, Fees, shall be added as follows.

114.04 Fees

No license will be issued under this ordinance until the appropriate license fees are paid in full. The fees will be established by the city's fee schedule and may be amended from time to time.

SECTION 5. Amendment. The City of Carlos City Code, Section 114.05, Basis for Denial of License, shall be added as follows.

114.05 Basis for Denial of License.

- A) Grounds for denying the issuance or renewal of a license include, but are not limited to, the following:

- 1) The applicant is under 21 years of age.
 - 2) The applicant has been penalized within the past five years for any violation of a federal, state, or local law, ordinance provision, or other regulation relating to licensed products.
 - 3) The applicant has had a license to sell licensed products suspended or revoked within the preceding 12 months of the date of application.
 - 4) The applicant fails to provide any of the information required on the licensing application or provides false or misleading information.
 - 5) The applicant is prohibited by Tribal, federal, state, or other local law, ordinance, or other regulation from holding a license.
 - 6) The business for which the license is requested is a moveable place of business. Only fixed-location retail establishments are eligible to be licensed.
 - 7) Any other suitable reason that the granting of a license to the applicant is inconsistent with public health, safety, and welfare, including the applicant's history of noncompliance with this ordinance and other laws relating to the sale of licensed products.
- B) If a license is mistakenly issued to a person or renewed, the city will revoke the license upon the discovery that the person was ineligible for the license under this ordinance. The city will provide the license holder with notice of the revocation, along with information on the right to appeal.

SECTION 6. Amendment. The City of Carlos City Code, Section 114.06, Prohibited Sales, shall be added as follows.

114.06 Prohibited Sales.

- a) In general. No person shall sell or offer to sell any licensed product:
 - 1) By means of any type of vending machine.
 - 2) By means of loosies as defined in section 114.02.
 - 3) Containing opium, morphine, jimson 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 products subject to this ordinance.

4) By means of self-service 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.

5) By means of delivery sales. All sales of licensed products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.

6) By any other means, to any other person, or in any other manner or form prohibited by Tribal, 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 and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, 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.

d) Cigars. No person shall sell or offer to sell:

(1) Any cigar unless it is within a package containing a minimum of 5 cigars; and

(2) Any package of cigars for a sales price of less than \$15.00 per package, after any discounts are applied and before sales taxes are imposed.

This provision does not prohibit the sale of a single cigar with a sales price of at least \$4.00, after any discounts are applied and before sales taxes are imposed.

e) Imitation tobacco products. No person shall sell or offer to sell any imitation tobacco products within the city.

f) 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 child-resistant packaging. 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.

- g) Coupon and price promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any licensed products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

SECTION 7. Amendment. The City of Carlos City Code, Section 114.07, Responsibility, shall be added as follows.

114.07 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. Nothing in this section shall construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law or other applicable law or regulation.

SECTION 8. Amendment. The City of Carlos City Code, Section 114.08, Compliance Checks and Inspections, shall be added as follows.

114.08 Compliance Checks and Inspections.

- a) All licensed premises must be open to inspection by authorized city officials or their designees during regular business hours.
- b) From time to time, but at least once per year, the city will conduct compliance checks to ensure compliance with all provisions of this ordinance.
- c) 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.

SECTION 9. Amendment. The City of Carlos City Code, Section 114.09, Exceptions and Defenses, shall be added as follows.

114.09 Exceptions and Defenses.

- a) Religious, Spiritual, or Cultural Ceremonies or Practices. Nothing in this ordinance prevents the provision of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
- b) Reasonable Reliance. It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

SECTION 10. Amendment. The City of Carlos City Code, Section 114.10, Violations and Penalties, shall be added as follows.

114.10 Violations and Penalties.

a) Violations.

1) Notice. A person violating this ordinance may be issued, either personally or by mail, a citation from the city that sets forth the alleged violation and that informs the alleged violator of their right to a hearing on the matter and how and where a hearing may be requested, including a contact address and phone number.

2) Hearings.

a) Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within 10 business days of the issuance of the citation and delivered to the City Clerk or other designated city officer. Failure to properly request a hearing within 10 business days of the issuance of the citation will terminate the person's right to a hearing.

b) The City Clerk or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least 10 business days prior to the hearing.

3) Hearing Officer. The City Council will designate a hearing officer. The hearing officer will be an employee of the city or an impartial person retained by the city to conduct the hearing.

4) Decision. A decision will be issued by the hearing officer within 10 business days of the hearing. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, will be recorded in writing, a copy of which will be provided to the city and the accused violator by in-person delivery or mail as soon as practicable. If the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings will be recorded and a copy will be provided to the city and the acquitted accused violator by in-person delivery or mail as

soon as practicable. The decision of the hearing officer is final, subject to an appeal as described in section 114.10, paragraph a) 6) of this section.

5) Costs. If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of \$1,000 must be paid by the person requesting the hearing.

6) Appeals. Appeals of any decision made by the hearing officer shall be filed in district court within 10 business days of the date of the decision.

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 cited for violating this ordinance, or whose employee has violated this ordinance, will be charged an administrative fine of \$300 for a first violation; \$600 for a second offense at the same licensed premises within a 36-month period; and \$1,000 for a third or subsequent offense at the same location within a 36-month period from the first violation. Upon the third violation, the license will be suspended for a period of not less than 30 consecutive days and may be revoked. Upon a fourth violation within a 36-month period from the first violation, the license will be revoked.

2) Employees of licensees and other individuals. Individuals 18 years of age and older who are found to be in violation of this ordinance may be charged an administrative fine of no more than \$50 or required to attend an instructional program regarding the requirements of the tobacco retail licensing ordinance.

3) Statutory penalties. If the administrative penalty for violations against licensed retailers under Section 10(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.

SECTION 11. Amendment. The City of Carlos City Code, Section 114.11, Severability, shall be added as follows.

114.11 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 invalidated section or provision.

SECTION 12. Effective Date. This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be

amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

This ordinance is subject to amendment by Carlos City Council action.

Passed by the council this 11 Day of December, 2025.

Signed:

Mayor Ronna Berghoff

Attest:

City Clerk/Treasurer Donna Eveslage