



Retail Tobacco Licensing Ordinances: Procedural Requirements

Through licensing and related regulations, local governments (cities and counties) have the opportunity to address the sale of tobacco and related devices and products (such as electronic cigarettes) in the retail environment. This fact sheet provides an overview of the procedural considerations involved when adopting or amending a retail tobacco licensing ordinance. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

Background

Local governments regulate the retail sale of tobacco through licensing ordinances. An ordinance is a local law that regulates people or property and can include penalties for violations. For example, retailers who sell tobacco to minors may be subject to fines, license suspension, or criminal prosecution.

Cities and counties must follow certain procedures when adopting an ordinance, including providing notice to individuals who will be subject to the law. Ordinances must follow a specific format and clearly state what is required or prohibited. Local governments are expected to enforce their ordinances, though they often have discretion in how that enforcement is done.

Local Government in Minnesota

There are two types of cities in Minnesota: (1) statutory cities, whose powers come from state law; and (2) [home rule charter cities](#), whose powers are derived from both state law and city charter. Counties also operate based on powers provided by the state.

The information in this fact sheet generally applies to all statutory cities and counties. Home rule charter cities may have different requirements in their charters. Cities and counties may also have additional rules or bylaws that may need to be followed in addition to the requirements found in state law. It is important to verify all of the requirements applicable for a specific jurisdiction.

Notice to Retailers

[State law](#) requires notice to tobacco retailers prior to adopting a new, or substantially changing an existing, retail licensing ordinance. Such changes could include:

- Prohibiting free tobacco product samples;
- Raising the minimum legal sale age for tobacco products;
- Setting a minimum price or pack size for cigars or other products;
- Prohibiting the redemption of coupons and other price discounting; and
- Limiting or eliminating the sale of flavored products.

The city or county must take “reasonable steps” to mail notice at least 30 days prior to the meeting “to the last known address of each license or person required to hold a license.” The notice must include the time, place, and date of the meeting and the subject matter of the proposed ordinance.

The notice requirement applies to all cities and counties and is unique to tobacco retailers. Since tobacco licensing ordinances are often infrequently updated, local officials may be unfamiliar with it.

Procedural Requirements

Local governments must take certain steps to properly adopt a tobacco licensing ordinance:

- **Adoption or amendment:** Cities and counties generally must follow the same procedures when adopting a new ordinance or amending an existing one.
- **Notice:** [Counties](#) must publish notice of a proposed ordinance in the county’s official newspaper at least 10 days prior to a meeting

where it will be considered. Statutory cities do not have a similar requirement.

- **Open Meetings:** The [Minnesota Open Meeting Law](#) requires that meetings of public bodies must be open to the public. One copy of the meeting materials must be available to the public at the meeting as well.
- **First and second readings:** State law does not require multiple readings before an ordinance may be adopted. Statutory cities and counties may vote on an ordinance the same day it is presented, but notice requirements must also be met. Many home rule charter cities require an ordinance receive at least two readings on separate dates and statutory cities or counties may do so as a matter of practice.
- **Public hearings:** While public hearings are an opportunity for local officials to receive the public’s input on an issue, unless specifically required by charter, a public hearing is not required to adopt a retail licensing ordinance. When a city or county holds a public hearing, notice of the time, place, and purpose must be published in the official newspaper.
- **Voting:** An ordinance must generally receive a majority vote for passage (e.g., three of five city council members) unless a larger number is required by law, as is the case when amending a zoning ordinance.
- **Publication/summary publication:** Once adopted, ordinances must be published, in full or summary form, in the [city’s](#) or [county’s](#) official newspaper within [45 days](#) of passage.
- **Possible consequences for noncompliance:** Failure to follow the procedures specified in state law or local charter can leave an ordinance subject to challenge. A city or county may be required to re-adopt the ordinance at a future meeting once all the relevant requirements have been satisfied.

CONTACT US

Please feel free to contact the Public Health Law Center at (651) 290-7506 or publichealthlaw@mitchellhamline.edu with any questions about the information included in this fact sheet or to discuss concerns you may have about implementing these policy options.