

ORDINANCE NO. 2023-008

**AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA,
REPEALING SECTION 110.999 PARAGRAPH C, ADDING SECTION
110.069 AND AMENDING SECTION 114.99 OF THE SHAKOPEE CITY
CODE RELATING TO PENALTIES FOR LICENSED TOBACCO AND
LIQUOR RETAILERS**

The City Council of Shakopee, Minnesota ordains:

Section 1. Section 110.999, Paragraph C of the Shakopee City Code is repealed.

Section 2. Chapter 110 of the Shakopee City Code is amended by adding the following Section:

110.069 Penalties

- A. *Licensee.* Any licensee who furnishes, sells, or attempts to sell tobacco, tobacco products, or tobacco-related devices to a minor or whose employee furnishes, sells, or attempts to sell tobacco, tobacco products, and tobacco-related devices to a minor shall be penalized as follows:
1. First incident: \$1,000 fine, plus 1-day license suspension; provided; however, that the day license suspension will be suspended for 1 year on the condition that both the licensee and his or her employees have no further incidents of furnishing, selling or attempting to sell tobacco, tobacco products, and tobacco-related devices to a minor;
 2. Second incident within 36 months of first incident: \$1,500 fine, plus 5-day license suspension; and
 3. Third or subsequent incident within 36 months of first incident: \$2,000 fine, plus 30-day license suspension or revocation.
- B. *Procedure.* The penalty for a first or second incident may be imposed and administered by the City Administrator if the licensee waives the hearing authorized by § 110.065 and the licensee admits the violation. The penalties for a third or subsequent incident may only be imposed by the City Council. No suspension or penalty may take effect until the licensee has received notice of the alleged violation and an opportunity for a hearing as provided in § 110.065.
- C. *Revocation.* Any revoked license shall not be eligible for reinstatement for at least 12 months.
- D. *Other individuals.* Any individual who sells tobacco, tobacco products, and tobacco-related devices to a minor shall be charged an administrative penalty of \$100, subject to the right to a hearing before the City Council as provided in § 110.065. Nothing in this Section shall prohibit the city or other jurisdiction from seeking criminal

prosecution for any alleged violation of this Section by any individual other than a licensee or employee of a licensee.

E. *Criminal penalties.*

1. Except as otherwise provided in subparagraph (5) below, it shall be a misdemeanor for anyone to sell or furnish tobacco, tobacco products, and tobacco-related devices to a minor. Whoever violates this Section a subsequent time within 5 years of a previous conviction under this paragraph shall be guilty of a gross misdemeanor.
2. It shall be a petty misdemeanor for a minor to smoke, chew, sniff, or otherwise use or ingest tobacco, tobacco products, and tobacco-related devices.
3. It shall be a petty misdemeanor for a minor to have in their possession tobacco, tobacco products, and tobacco-related devices. This provision does not apply to a minor who is an employee of a license holder while stocking tobacco, tobacco products, and tobacco-related devices or to a minor lawfully involved in a compliance check.
4. It shall be a petty misdemeanor for a minor to purchase, or attempt to purchase tobacco, tobacco products, and tobacco-related devices, or for any person to purchase or otherwise obtain such items on behalf of a minor. This provision does not apply to a minor who purchases or attempts to purchase tobacco-related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.
5. It shall be a petty misdemeanor for a minor to sell, furnish, or give away any tobacco, tobacco products, and tobacco-related devices.
6. It shall be a misdemeanor for a minor to attempt to disguise minor's true age by the use of a false form of identification, whether the identification is that of any other person or one on which the age of the minor has been modified or tampered with to represent an age older than the actual age of the minor.

F. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Section 3. Section 114.99, Paragraph B of the Shakopee City Code is amended to read as follows:

- B. 1. The purpose of this division (B) is to establish a uniform set of penalties for licensees who furnish or sell alcoholic beverages to minors. The penalties for a first or second incident shall be imposed and administered by the City Administrator upon an admission by the licensee that the licensee furnished or sold an alcoholic beverage to a minor. The penalties for a third or fourth incident may only be imposed by the City Council.

2. The following penalties shall be imposed if a licensee furnishes or sells alcoholic beverages to a minor:

a. A \$1,000 fine and a 1-day license suspension for the first incident; provided, however, that \$500 of the fine and the 1-day license suspension will be suspended for 1 year on the condition that the licensee has no further incidents of furnishing or selling alcoholic beverages to minor during that 1-year period;

b. A \$1,500 fine and a 5-day license suspension for a second incident occurring within 3 years of the date of the previous incident;

c. A \$2,000 fine and a 10-day license suspension for a third incident occurring within 3 years of the dates of the previous 2 incidents;

d. A ~~\$2,000~~ \$3,500 fine and a suspension of the license for a minimum of 30 days or a revocation of the license for a fourth or subsequent incident occurring within 3 years of the dates of the previous incidents.

Section 4. Effective Date. This ordinance becomes effective from and after its adoption and publication.

Passed in regular session of the City Council of the City of Shakopee, Minnesota held on the 20th day of June 2023.

Mayor of the City of Shakopee

Attest:

Lori Hensen, City Clerk

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