



Regulating the Location, Density, and Type of Tobacco Retailers

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 considerations involved when regulating the location, density, or type of tobacco retailers. It is one in a series of resources providing Minnesota-specific information on local retail tobacco licensing and point-of-sale options.

Background

Tobacco products are widely available in Minnesota. A high prevalence of tobacco retailers is associated with increased use and a higher concentration of tobacco retailers in low income neighborhoods or around schools has negative consequences for public health. Retail outlets are also a source of exposure to tobacco marketing, which is designed to encourage initiation and use. Fortunately, local governments can limit the availability of tobacco products by restricting where retailers operate or the types of businesses that sell tobacco products.

Policy Approaches

Local governments generally regulate the location and types of tobacco outlets through two approaches:

Licensing: A license grants the privilege to engage in a regulated activity—such as the sale of tobacco—so long as all conditions or requirements

are followed. Minnesota retailers must have a local license to sell tobacco and related devices and products.

Pros:

- Licensing can address location, density, number, and type of tobacco retailers.
- Licensing is an effective tool for regulating sales practices, such as prohibiting the redemption of coupons or setting a minimum package size for cigars.
- New licensing requirements can be applied to existing license holders. For example, if a community prohibits tobacco retailers within 1,000 feet of a school, a new retailer would not be allowed to sell tobacco within that radius and an existing retailer would be ineligible to renew its tobacco license.
- Amendments to the licensing law are adopted by the city council or county board and may



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not require involvement by other boards or commissions.

Cons:

- While not required, communities may choose to apply licensing restrictions only to new businesses. Exempting or “grandfathering” existing retailers from new licensing restrictions minimizes the practical effect of new regulations.

Land use: Local governments use zoning ordinances, comprehensive plans, and other land use authority to regulate how property is used today and in the future.

Pros:

- Zoning codes can be amended by ordinance to prohibit the sale of tobacco in certain areas, such as residential districts.
- New retailers may be required to obtain a Conditional Use Permit (CUP) before opening.

Cons:

- Land use restrictions generally apply only to future businesses. Existing locations may continue as “legal nonconforming uses.” In communities with little growth or redevelopment, new restrictions may have little or no impact.
- Tobacco use may not be a primary concern with the city or county planning commission whose input is required for land use changes or at public hearings that are required before amending the zoning code or issuing a CUP.
- Because land use regulations affect the use of land and not the business operation itself, they are not well suited to addressing specific sales practices, such as prohibiting the sale of tobacco products at pharmacies.

Policy Options

- **Restricting the location of tobacco retailers:** Local governments may prohibit tobacco

retailers near certain locations. Many Minnesota communities prohibit tobacco sales within 1,000 feet of schools, parks, or other youth-oriented facilities. Prohibiting tobacco retailers near places youth frequent limits the availability of tobacco and the exposure to tobacco products.

- **Capping the number of tobacco retailers:** Communities can decrease the availability of tobacco by limiting the total number of tobacco retailers in a community. There are several ways to do this, including setting the cap as the number of existing retailers, limiting the number based on population density, or gradually decreasing the number based on non-renewal of licenses. Communities concerned with the proliferation of “adult-only, tobacco-only” shops could limit the number of these retailers as well.
- **Restricting the proximity of tobacco retailers:** A community may decrease retailer density by requiring a minimum distance between licensees.
- **Prohibiting the sale of tobacco products in pharmacies or other health institutions:** Many see the sale of tobacco products at pharmacies or similar businesses as inconsistent with their health-improving mission. A number of Minnesota communities prohibit the sale of tobacco and related products in stores with a pharmacy. New applicants are ineligible for a license, and existing licensees are ineligible for renewal.
- **Addressing the sale of tobacco in the comprehensive plan:** A comprehensive plan documents a city or county’s vision of its future in areas such as transportation, housing, and land use. When the local government updates its comprehensive plan, it could state its intention to prohibit or regulate tobacco retailers in certain areas. Although such a statement is not binding, it may signal political support for future ordinance changes.

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.