



City of Grand Forks Staff Report

Committee of the Whole – March 11, 2019

City Council – March 18, 2019 and April 1, 2019

Agenda Item: Ordinance amending Section 21-2808 relating to violations, penalties, notice, appeal of tobacco licensing violations

Submitted by: Howard D. Swanson, City Attorney

Staff Recommended Action: Preliminary and final approval of draft ordinance

Committee Recommended Action: Refer to City Council with the recommendation to approve.

Council Action:

BACKGROUND:

Grand Forks City Code Section 21-2808 sets forth the provisions for violations of the tobacco sales and licensing ordinance including the requirement of notice of violations. Currently, the City Code is not well written as to what notice is required. The proposed draft ordinance clarifies the notice required by ordinance.

ANALYSIS AND FINDINGS OF FACT:

SUPPORT MATERIALS:

Draft Ordinance.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 21-2808 OF THE GRAND FORKS CITY CODE RELATING TO VIOLATIONS; PENALTIES; NOTICE; APPEAL OF TOBACCO LICENSING VIOLATIONS

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND FORKS, NORTH DAKOTA, PURSUANT TO THE HOME RULE CHARTER OF THE CITY OF GRAND FORKS, NORTH DAKOTA, THAT:

SECTION I. AMENDING CLAUSE

Section 21-2808 of the Grand Forks City Code relating to violations, penalties, notice, appeal of tobacco licensing violations is hereby amended to provide as follows:

21-2808. - Violations; penalty; notice; appeal.

- (1) In addition to any penalties which may be imposed by a court of law, the mayor or a designated hearing officer, upon a finding that the licensee or its employee has failed to comply with this article, shall issue an order imposing upon the licensee for each violating location an administrative penalty, license suspension and/or revocation as follows:
 - (A) For a first offense, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00).
 - (B) For a second offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and the suspension of the license for not less than one (1) day and not more than five (5) days.
 - (C) For a third offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and suspension of the license for not less than ten (10) days and not more than thirty (30) days.
 - (D) For a fourth offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and suspension of the license for not less than one hundred eighty (180) days.
 - (E) For a fifth offense within one (1) year, an administrative penalty of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) and revocation of the license.

- (F) Revocation of the license may also occur at any time upon a finding of a knowing and willful disregard or disobedience of this article.
- (2) Except as otherwise provided herein, the licensee shall be notified by the city of any violations and nature of such violations ~~the nature~~ no more than thirty (30) days after the office of city attorney is notified of an alleged violation. However, if the alleged violation is identified during a compliance survey conducted by the city, the licensee shall be notified of the nature of charges no more than ten (10) days after the alleged violation.
- (3) Any order imposing an administrative penalty, suspension, or revocation or suspension of a license shall be preceded by a hearing before the mayor or a designated hearing officer. A hearing notice shall be given to the licensee at least ten (10) days prior to the hearing, including notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.
- (4) Any order imposing an administrative penalty, suspension, or revocation may be suspended, in whole or in part, by the mayor or a designated hearing officer. In considering the suspension of these orders, the mayor or hearing officer shall take into account good faith efforts by the licensee to train and instruct employees, the apparent age of the purchaser, and other efforts by the licensee to comply with the intent of this article.
- (5) The licensee may appeal the decision of the mayor or a designated hearing officer within ten (10) days of receiving notice of the city's action by filing a written notice of appeal with the city council. The filing of an appeal stays the action of the mayor or a designated hearing officer until the city council makes a final decision. The city council may affirm, reverse, or modify any order imposing an administrative penalty, license suspension or license revocation.

SECTION II. EFFECTIVE DATE

This ordinance shall be in full force and effect after passage and approval as provided by law.

Michael R. Brown, Mayor

ATTEST:

Maureen Storstad, Director
Finance & Administrative Services

Introduction and first reading:
Public Hearing:

Second Reading and Final Passage:

Approved:

Published: