

**Addenda
Minnetonka City Council Meeting
Meeting of August 1, 2022**

ITEM 9A – Bids for the Delton Avenue Trail Project

The attached public comment was received after distribution of the packet.

ITEM 14A – Ordinance Amending City Code Section 625 Regarding Tobacco Sales

Attached is a public comment received after distribution of the packet, along with a revised version of the ordinance.



14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | minnetonkamn.gov

TO: City Council
FROM: Phil Olson, P.E., City Engineer
DATE: Aug. 1, 2022
SUBJECT: Change Memo for Aug. 1, 2022 City Council Meeting

ITEM 9A – Bids for the Delton Avenue Trail Project

The following emailed public comment was received after the distribution of the packet.

From: Luke Van Santen

Sent: Monday, August 1, 2022 11:18 AM

To: Brad Wiersum <bwiersum@minnetonkamn.gov>; Bradley Schaeppi <bschaeppi@minnetonkamn.gov>; Kimberly Wilburn <kwilburn@minnetonkamn.gov>; Deborah Calvert <dcalvert@minnetonkamn.gov>

Cc: Matt Kumka <mkumka@minnetonkamn.gov>

Subject: Support for Delton Ave Trail segment

Mayor, Councilmembers, Staff -

I was very glad to see the partnership opportunity described in the upcoming Council Meeting agenda. I very much hope that everyone who will be voting on it votes to support this item as it will make a noticeable difference in accessing the high school for people walking and biking! Not only that, it will do so at a significantly lowered cost.

Cordially,

Luke Van Santen
Minnetonka Universal Bicycling



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To: City Council
From: Julie Wischnack, AICP, Community Development Director
Date: Aug. 1, 2022
Subject: Change Memo for the Aug. 1, City Council Agenda

ITEM 14A – Ordinance Amending City Code Section 625 Regarding Tobacco Sales

Attached is an email comment received after distribution of the packet and a revised version of the ordinance.

From: Thomas Stockert [REDACTED]
Sent: Saturday, July 30, 2022 10:02 AM
To: Brad Wiersum <bwersum@minnetonkamn.gov>; Bradley Schaeppi <bschaeppi@minnetonkamn.gov>; Kissy Coakley <kcoakley@minnetonkamn.gov>; Deborah Calvert <dcalvert@minnetonkamn.gov>; Kimberly Wilburn <kwilburn@minnetonkamn.gov>; Rebecca Schack <rschack@minnetonkamn.gov>; Brian Kirk <bkirk@minnetonkamn.gov>
Cc: Julie Wischnack <jwischnack@minnetonkamn.gov>; Mike Funk <mfunk@minnetonkamn.gov>
Subject: August 1 Agenda item 14.A Ordinance Amending City Code Section 625 Regarding Tobacco Sales

Good morning Mayor and Council Members,

I am writing about the August 1 Agenda item 14.A Ordinance Amending City Code Section 625 Regarding Tobacco Sales

I appreciate the efforts made by City Staff, at the direction of Council, to protect existing, small, tobacco store owners. My spouse's parents owned a small business. Selling it was their entire retirement plan. Even though, fortunately (longevity) and unfortunately (their last few years) they outlived their retirement savings. This is the main reason I've shown interest in this issue.

Section 5(a) reads:

"(a) issuing the license would cause the total number of exclusive tobacco stores in the city to exceed six; (If more than six applications are received in a single year, priority will be given to establishments that were licensed as of [effective date of ordinance]); or"

I assume the intent of this language is to protect existing stores and their qualified successors.

However, 5(d) reads:

(d) If the licensed premises is purchased or has a change in ownership, but remains in the same location; a. through c. do not apply.

I'm not an attorney, though I review a lot of contracts. In the future, one could interpret that 5(d) takes away the protection afforded existing business in 5(a). The decision-making body won't look back to the minutes and will simply look to the face of the ordinance.

I'd ask that you direct the City Attorney to reword Section 5(d) to read:

(d) If the licensed premises is purchased or has a change in ownership, but remains in the same location; ~~a.~~ b. through c. do not apply.

5(b) and 5(c) are what I was hoping to clarify in the language as they "grandfather" existing businesses. Once again, Cub Foods, Holiday and chain drug stores can have a string of successor CEOs, and their stock can be merged into other corporations for generations to come. We owe similar continuity to protect investments made by sole proprietors and partnerships.

Alternatively – a simple statement elsewhere in the ordinance such as the following could clarify Staff and Council's intent:

"Nothing in this ordinance shall impact an existing establishment or its qualified successors from renewing their license."

Again, I'm not an attorney so some derivation of that statement might be helpful.

One other minor point, Section 5(b) reads:

"the premises for which the application is being made sought is less than 2,000 feet away from the property line of a school; or"

I'm assuming an edit was attempted to either replace "made" with "sought" or "sought" with "made".

Once again, I appreciate the effort and thought that's gone into clarifying the intent of this ordinance. It was helpful for staff to reach out to existing business.

Like you, I agree that it would have been best had I never tried a cigar. Though since I do enjoy them I'm excited to continue to support a local business and pay my share of sin taxes.

See you Monday, all the best.

Tom Stockert
5524 Dominick Dr.

Ordinance No. 2022-

**An Ordinance amending sections 625.005 and 625.030 of the
Minnetonka City Code; relating to tobacco licenses;
imposing restrictions on licenses for exclusive tobacco stores**

The City of Minnetonka Ordains:

Section 1. Section 625.005 of the Minnetonka City Code, relating to definitions, is revised by adding a new subdivision 2 to read as follows and renumbering subsequent subdivisions accordingly:

2. "Exclusive tobacco store" means a place of business that is primarily dedicated to the sale of tobacco or tobacco-related devices or products.

Section 2. Section 625.030 of the Minnetonka City Code is amended to read as follows:

625.030. Restrictions. The following restrictions apply to tobacco licenses in the city.

1. No license may be issued to a person not of good moral character.
2. No license may be issued for the sale of tobacco-related products at a movable place of business.
3. A separate license is required for the sale of tobacco-related products at each place of business.
4. A license is not transferable from one person to another.
5. No new license may be issued to an exclusive tobacco store after [effective date of ordinance] if any of the following circumstances exist:
 - (a) issuing the license would cause the total number of exclusive tobacco stores in the city to exceed six; (If more than six applications are received in a single year, priority will be given to establishments that were licensed as of [effective date of ordinance]); or
 - (b) the premises for which the application is being made is less than 2,000 feet away from the property line of a school; or

The ~~stricken~~ language is deleted; the underlined language is inserted.

(c) there is a licensed exclusive tobacco store located on the same property as the premises for which the application is being made.

When a licensed establishment is sold or has a change in ownership, this section does not prevent the issuance of a new license to the successor establishment, provided that the establishment remains in the same location.

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 4. This ordinance is effective 30 days after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: March 21, 2022

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on

Becky Koosman, City Clerk