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To: Honorable Mayor and City Council
From: Daniel J. Fluegel, City Attorney
Date: November 27, 2013
Item: Proposed Tobacco Ordinance Amendment

Council Action Requested.

The City Council is requested to complete a first reading and order a public hearing on a proposed ordinance amendment to Chapter 112: Tobacco Regulations. The proposed amendment would prohibit all smoking within any establishment holding a retail tobacco license. The public hearing and second reading would be scheduled for January 6, 2014 to allow sufficient time for required notices to be mailed to existing tobacco licensees.

Background Information.

Last year City Staff discussed proposed changes to the tobacco ordinance aimed at preventing smoking indoors at establishments with retail tobacco licenses. Currently, the Minnesota Clean Indoor Air Act, Minn. Stat. § 144.4167, does not prohibit lighting of tobacco in a tobacco products shop by a customer for the specific purpose of sampling tobacco products. To qualify as a tobacco products shop, 90 percent of the business revenue must be derived from the sale of tobacco or tobacco products. Minn. Stat. §§ 144.417 and 461.19 provide that cities may enact and enforce more stringent measures to regulate tobacco sales and to protect individuals from secondhand smoke. The Minnesota Department of Health has stated that the "sampling" exception does not allow dedicated smoking lounges, included hookah lounges. The League of Minnesota Cities has developed model ordinance provisions that prohibit all smoking, including sampling, in licensed retail tobacco establishments. City Staff recommends adoption of the proposed ordinance amendment to promote the public policies advanced under the Minnesota Clean Indoor Air Act by prohibiting all smoking within these indoor areas.

Financial Impact.

There should be no financial impact to the City with the possible exception of decreased tobacco license fee revenue.

Attachments.

Proposed tobacco ordinance amendment.

DAN/Imp

CITY OF HASTINGS, MINNESOTA

ORDINANCE NO. 2014-___, THIRD SERIES

**An Ordinance of the City of Hastings Regulating
Tobacco and Tobacco Products**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS:

**HASTINGS CITY CODE CHAPTER 112, SECTIONS 112.02 AND 112.03 ARE AMENDED AS
FOLLOWS:**

§ 112.02 DEFINITIONS AND INTERPRETATIONS.

The definitions of **INDOOR AREA** and **SMOKING** shall be added as follows:

INDOOR AREA. All space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

SMOKING. Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking includes carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

§ 112.03 LICENSE.

§ 112.03(J) shall be added as follows:

(J) *Smoking.* Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco and tobacco related products is prohibited.

Council member _____ moved a second to this Ordinance, and upon being put to a vote it was adopted by a majority of all Council members present.

Adopted by the Hastings City Council on this ____ day of _____, 2014, by the following vote:

Ayes
Nays:
Absent:

CITY OF HASTINGS

Paul J. Hicks, Mayor

ATTEST:

Julie A. Flaten, City Clerk

I hereby certify that the above is a true and correct copy of the Ordinance presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the ____ day of _____, 2014, as disclosed by the records of the City of Hastings on file and of record in the office.

Julie A. Flaten, City Clerk