



To: Mayor and Council

Agenda Item #: IV.M.

From: Jeff Brown, Community Health Administrator & Community Health
Commission Staff Liaison.

Action
Discussion
Information

Date: 8/4/14

Subject: Ordinance No. 2014- 11. Amending Chapters 12, 20, and 24 of the Edina City Code Concerning Tobacco and Electronic Delivery Devices.

Action Requested:

Waive second reading and adopt the attached Ordinance, amending Chapters 12, 20, and 24 of the City Code.

Information / Background:

The attached ordinance is intended to follow Council direction from the June 3rd work session with the Community Health Commission (CHC). The CHC and Council discussed regulating Electronic Delivery Devices as the Minnesota Freedom to Breathe Act regulates cigarettes and related products. The ordinance will also include Electronic Delivery Devices in the definition of *tobacco-related device*, which would require a City tobacco license for any business selling these items.

ORDINANCE NO. 2014-11
AN ORDINANCE AMENDING CHAPTERS 12, 20 and 24
OF THE EDINA CITY CODE
CONCERNING TOBACCO AND ELECTRONIC DELIVERY DEVICES

THE CITY OF EDINA ORDAINS:

Section I. Section 12-189 of the Edina City Code is amended by adding and amending the following definitions:

Sec. 12-189. Definitions.

Electronic delivery device and e-cigarette mean any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Smoking lounge means a location licensed to sell tobacco products where: (a) Except for a bona fide sale of a smoking device, providing or otherwise making available for use by a customer, potential customer, or any other person a smoking device for the purpose of smoking any tobacco product; (b) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a tobacco products shop; or (c) Permitting within the indoor area the sampling of any tobacco product which was not furnished by the tobacco products shop on the date and at the time the sampling occurs.

Tobacco-related device means any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco-related products. The term "tobacco-related device" includes electronic delivery devices.

Vapor lounge means a location that sells electronic delivery devices where: (a) Except for a bona fide sale of electronic delivery devices, providing or otherwise making available for use by a customer, potential customer, or any other person a device or product for the purpose of using an electronic delivery device product; (b) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a shop that sells electronic delivery devices; or (c) Permitting within the indoor area of a shop that sells electronic delivery devices the sampling of any electronic delivery

device product which was not furnished by the shop on the date and time the sampling occurs

Section 2. Chapter 12 of the Edina City Code is amended by adding section 12-56 to read as follows:

12-56. Smoking and Vapor Lounges

Smoking lounges and vapor lounges are prohibited.

Section 3. Chapter 20 of the Edina City Code is amended by adding Article X to read as follows:

ARTICLE X. CLEAN INDOOR AIR ACT

Division I. Generally.

20-60. Adoption of Minnesota Clean Indoor Air Act by reference; prohibition on use of electronic delivery devices in public places.

(a) The following terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Indoor area means all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than fifty percent (50%) 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. A 0.011 gauge window screen with an 18 by 16 mesh count is not a wall.

Public place means any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; retail stores and other commercial establishments; educational facilities other than public schools, as defined in section 120A.05, subdivisions 9, 11, and 13; hospitals; nursing homes; auditoriums; arenas; meeting rooms; and common areas of rental apartment buildings.

(b) Minnesota Statutes §§ 144.411 to 144.417 are hereby adopted by reference and are made a part of this article as if set out in full.

(c) The use of electronic delivery devices is prohibited in all public places.

Section 4. Section 24-282 of the Edina City Code is amended to read as follows:

Sec. 24-282. Tobacco and electronic delivery device use prohibited in public parks.

In addition to the requirements of sections 24-254 and 24-255, the use of electronic delivery devices and tobacco in any form is prohibited in public parks, indoor or outdoor.

Section 5. This ordinance is effective immediately upon its passage and publication.

First Reading: August 4, 2014

Second Reading: Waived

Published: August 14, 2014

Attest

Debra A. Mangen, City Clerk

James B. Hovland, Mayor