



AGENDA SECTION	WORK SESSION ITEMS
MEETING DATE	JANUARY 4, 2021

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	Review and Comparison of Tobacco Sales and Indoor Smoking Regulations		
DEPARTMENT:	Community Development	CITY MANAGER'S APPROVAL:	
BY/DATE:	Mitchell Forney 12/23/20	BY/DATE:	<i>Kell Bongers</i> 12/31/20
CITY STRATEGY:	#1; Safe Community		
Additional Strategy?	Choose an item.		
SHORT TERM GOAL (IF APPLICABLE):	Choose an item.		
Additional Goal?	Choose an item.		

BACKGROUND:

The Columbia Heights Police Department recently completed compliance checks on licensed tobacco sales establishments in the City. The compliance checks resulted in two citations for tobacco sales to minors. These recent violations prompted a broader conversation by City Council members and staff regarding tobacco sales and consumption regulation within the City. Within this context, staff would like to discuss with the Council the regulation of indoor smoking and sampling. The following memo and attachments present current state and local policies, and provides a summary of possible changes to the Columbia Heights City Code. Any mention of indoor smoking is reference to the smoking of tobacco or tobacco related products within a public space or place of employment.

Smoking and the sampling of tobacco products is covered under MN State Statutes §144.412 through §144.417. Collectively, these Statutes are known as the Clean Air Act. State Statutes created under the Clean Air Act were established “to protect employees and the general public from the hazards of secondhand smoke.” (§144.412) Minnesota State Law expressly prohibits the smoking of tobacco or electronic devices containing nicotine within public spaces or places of employment. However, there is one exception to the ban on indoor smoking that allows for sampling. Sampling regulation for tobacco shops can be found in §144.4167 Subd. 4. of State Statute. State Statute does not prohibit the lighting, heating, or activating of tobacco, in a tobacco products shop for the purpose of sampling. State Statute also does not define or set clear parameters for the act of sampling. Despite the lack of clear direction found in the Statutes, many cities chose to further regulate indoor smoking through local ordinances.

As part of the full policy review, Community Development staff researched the codes of 23 surrounding cities. Of those 23 surveyed, only three did not establish further restrictions or restate the Clean Air Act ban on indoor smoking. Three cities reaffirmed the state's prohibition of smoking indoors, while 16 cities either prohibited both Indoor Smoking and sampling or just prohibited Sampling. The list of Cities researched along with what they have outlined in their code is attached.

The options summarized below highlight some of basic changes that can be made to the City Code as it relates to tobacco sales and sampling.

No Change:

This would continue to maintain the status quo within the city. Any violations of the clean air act would have to be brought to the attention of the Minnesota Health Department for their review and prosecution.

Reaffirm the State Prohibition on Indoor Smoking

By establishing a section within city code prohibiting indoor smoking the city would have the ability to conduct compliance checks and prosecute any violations to the City wide policy. This would be very similar to the compliance inspections that both tobacco and alcohol license holders are currently subject to.

Prohibit Seating within Tobacco Shops

The city of Minneapolis currently allows tobacco shops to distribute single service samples for the use of sampling. Prohibited in Minneapolis's city code is the sampling of tobacco not provided by the tobacco shop it is being sampled at. Also prohibited is the furnishing of indoor seating. By seeking a similar route, tobacco shops would continue to be able to sample tobacco, but establishments that are outfitted for patrons to sample for long periods of time would be prohibited.

Prohibit Indoor Sampling

By prohibiting indoor sampling tobacco shops would no longer be able to allow patrons to sample products indoors. Tobacco shops would still have the ability to give samples to prospective customers, but the samples would have to be smoked outside. This would also allow the City to prosecute any violations.

Clearly Define Sampling within City Code

In combination with the possible changes above, clearly defining the extent of sampling allowed would give the City the ability to ensure compliance and prosecute any violations.

STAFF RECOMMENDATION:

City staff does not have a recommendation; the purpose of this memo is the presentation of current policies alongside possible changes to city code.

ATTACHMENTS:

- Summary Table of City Codes
- Code Language from Surrounding Communities