

ORDINANCE NO. _____

**CITY OF MINNETRISTA
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

**AN INTERIM ORDINANCE TEMPORARILY ESTABLISHING A LICENSING AND PLANNING
MORATORIUM ON THE ESTABLISHMENT OR EXPANSION OF TOBACCO SHOPS**

WHEREAS, Chapter XIV, Section 1405 of the Minnetrista City Code regulates the sale or disposal of cigarettes within the City through the issuance of a tobacco license; and

WHEREAS, the City of Minnetrista has adopted official controls through the adoption of the Zoning Code which regulates the locations of certain businesses within the City; and

WHEREAS, the City Council has concerns that the City's current licensing and zoning provisions relating to tobacco shops do not adequately address the issues relating to tobacco shops, such as the appropriate locations and the conditions under which tobacco shops may be allowed within the City; and

WHEREAS, the City Council also recognizes a need to update its tobacco regulations to keep pace with recent changes in both federal and state laws given that there a number of other tobacco and nicotine delivery products that may be sold, including, but not limited to, cigars, pipes, hookah tobacco, and chewing tobacco as well as nicotine delivery devices such as electronic nicotine delivery systems and vapes; and

WHEREAS, as a result of these important licensing, land use and zoning issues, the City desires to conduct a study for the purpose of consideration of possible amendments to the City's licensing provisions and official controls to address issues concerning tobacco shops; and

WHEREAS, the City Council has authority, pursuant to Minnesota Statutes Section 462.355, subdivision 4, to adopt an interim ordinance to study whether new or amended controls are necessary to fulfill the City's legal obligation to adequately protect the public health, safety and welfare and to protect the planning process; and

WHEREAS, the City Council is also authorized as part of its general police powers to adopt business licensing requirements related to the sale of tobacco-related products; and

WHEREAS, the Minnesota Supreme Court in the case of Almquist v. Town of Marshan (245 N.W.2d 819 (Minn. 1976)), upheld the enactment of a moratorium despite the lack of express statutory authority as being a power inherent in a broad legislative grant of power to municipalities. In most cases, the enactment of business licensing requirements is based on a city's police powers, which is the broadest grant of power to cities. Inherent in that

broad grant of authority is the power to temporarily place a moratorium on a business activity to study and potentially change or implement licensing regulations on that business activity; and

WHEREAS, there are both business licensing and zoning issues associated with the sale of tobacco products and therefore, the City Council determines that it needs time to study to consider the development and adoption of local regulations. In order to protect the planning process and the health, safety, and welfare of the residents while the City conducts its study and the City Council engages in policy discussions regarding possible regulations, the City Council determines that it is in the best interests of the City to impose a temporary moratorium on the establishment and expansion of tobacco shops to allow the City time to complete its study, determine how such sales and uses should be regulated under the City Code and the Zoning Code and to draft and enact such legislative updates as needed; and

NOW, THEREFORE BE IT RESOLVED:

THE CITY OF MINNETRISTA HEREBY ORDAINS:

Section 1. The following Interim Ordinance is hereby adopted by the City Council:

Subdivision 1. **Prohibition.** No business, person, or entity shall establish or expand a tobacco shop within the City. The City shall not accept, process, or act on any tobacco license application, site plan, building permit, or zoning approval for a new or expanded tobacco shop.

Subd. 2. **Violations.** During the term of this Ordinance, it is a violation of this Ordinance to do any of the following within the City:

- (a) Establish a new tobacco shop; or
- (b) Expand an existing tobacco shop.

Subd. 3. **Exceptions.** The moratorium imposed by this Ordinance does not apply to the following:

- (a) Renewal of a tobacco license for a tobacco shop lawfully existing prior to the effective date of this Ordinance; and
- (b) The continued operation of a tobacco shop lawfully existing prior to the effective date of this Ordinance.

Subd. 4. **Enforcement.** A violation of this Ordinance shall be a misdemeanor. In addition, the City may enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction.

Subd. 5. **Definitions.** For purposes of this Ordinance, the following words, terms, and phrases shall have the meanings given them in this Subdivision.

- (a) “Electronic Delivery Device” means an electronic product that is designed to use, or that uses, liquids or pre-loaded cartridges to simulate smoking in the delivery of nicotine or any other substance through inhalation of the aerosol or vapor produced from the substance.
- (b) “Expand” means, with respect to a tobacco shop, increasing the amount of shelf space or floor area within an existing store used to display or sell tobacco-related products. The term also includes increasing the size of the building or space in which the tobacco shop is located.
- (c) “Tobacco” means and includes cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; cheroots; stogies; perique; granulated, plug cut, crip cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved 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 being marketed and sold solely for such an approved purpose.
- (d) “Tobacco-Related Products” mean tobacco and related materials and devices used in rolling, smoking, or storing tobacco. The term includes electronic delivery devices and the substances sold for use by such devices.
- (e) “Tobacco Shop” means a retail establishment with sales, or projected sales, of tobacco-related products constituting at least 40 percent of the establishment’s total sales in any month.

Subd. 6. **Severability.** Every subdivision, provision, or part of this Ordinance is declared severable from every section, provision, or part of this Ordinance. If any subdivision, provision, or part of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this Ordinance.

Subd. 7. **Duration.** This Ordinance shall be in effect upon the first day of publication after adoption and shall have a term of 12 months. This Ordinance shall remain in effect until the expiration of the 12-month term or until it is expressly repealed by the City Council, whichever occurs first.

Subd. 6. **Not Codified.** This Ordinance is transitory in nature and shall not be codified into the City Code or the Zoning Code.

Section 2. This Ordinance is effective upon its adoption and publication.

Adopted Date: _____, 2025.

Lisa Whalen
Mayor

Attest:

Ann Meyerhoff
City Clerk

(seal)