

LAUDERDALE CITY COUNCIL MEETING AGENDA
7:30 P.M. TUESDAY, FEBRUARY 11, 2014
LAUDERDALE CITY HALL, 1891 WALNUT STREET

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

- 1. **CALL THE MEETING TO ORDER**
- 2. **ROLL CALL**
- 3. **APPROVALS**
 - a. Agenda
 - b. Minutes of the January 28, 2014 City Council Meeting
 - c. Claims Totaling \$52,420.44
- 4. **CONSENT**
 - a. 2014 Garbage Hauler Licenses
- 5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
- 6. **INFORMATIONAL PRESENTATIONS / REPORTS**
- 7. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.

- 8. **DISCUSSION / ACTION ITEMS**
 - a. Postal Service within the City
 - b. Tobacco Ordinance Revisions
- 9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
- 10. **ADDITIONAL ITEMS**
- 11. **SET AGENDA FOR NEXT MEETING**
 - a. Larpenteur Avenue Pedestrian Improvement Project
 - b. Introduction to the Bhutanese Community – Parmanada Khatiwoda
 - c. Legislative Update – March 11
 - d. St. Anthony Police Annual Report – March 25
 - e. Annual Update by Ramsey County Commissioner McGuire – April 22
 - f. Ramsey County Economic Prosperity Report – April 22
- 12. **WORK SESSION**
 - a. Opportunity for the Public to Address the City Council

Any member of the public may speak at this time on any item not on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address, and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer.

Your participation, as prescribed by the Robert's Rules of Order and the standing rules of order and business of the City Council, is welcomed and your cooperation is greatly appreciated.

- b. National League of Cities Membership
- c. Community Development Update

13. **ADJOURNMENT**

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 1 of 3

January 28, 2014

Mayor Dains called the City Council meeting to order at 7:38 p.m.

Councilors present: Mary Gaasch, Lara Mac Lean, and Mayor Jeff Dains.

Councilors absent: Denise Hawkinson and Roxanne Grove.

Staff present: Heather Butkowski, City Administrator; Jim Bownik, Assistant to the City Administrator; and Kevin Kelly, Deputy City Clerk.

Mayor Dains asked for changes to the meeting agenda. Butkowski added the Metropolitan Council's Inflow and Infiltration Grant to the agenda. Councilor Mac Lean moved to approve the amended agenda. Councilor Gaasch seconded the motion and it passed unanimously.

Councilor Gaasch moved to approve the January 14, 2014 City Council meeting minutes. Councilor Mac Lean seconded the motion and it passed unanimously.

Councilor Mac Lean moved approval of the claims totaling \$33,914.71. Councilor Gaasch seconded the motion and it passed unanimously.

Councilor Gaasch moved approval of the December Financial Report and the Fourth Quarter / Year End Investment Report. Councilor Mac Lean seconded the motion and it passed unanimously.

Discussion Items

Easement Agreement with the owners of 2449 Larpenteur Avenue

The property owners signed the easement agreement before the meeting and now the Council must execute the agreement to make it official. Butkowski stated the property owners support the pedestrian improvement project and see the need to complete the "missing" sections of sidewalk. The easement agreement covers the temporary construction and permanent easements needed. Councilor Gaasch thanked the property owners for working with the City.

Councilor Mac Lean moved to execute the easement agreement with Steven Ramlow and Susan Kay and to compensate them \$5,180 for the permanent and temporary construction easements. Councilor Gaasch seconded the motion and it passed unanimously.

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 2 of 3

January 28, 2014

Support for Ramsey County Bonding Request – Resolution 012814A

Mayor Dains and the Council support Ramsey County's efforts to seek bonding money for road improvements in the County.

Councilor Mac Lean moved adoption of Resolution 012814A - A Resolution Supporting Ramsey County's Request for TCAAP Road Improvements at 35W/Highway 96 and 35W/County Road H. Councilor Gaasch seconded the motion and it passed unanimously.

City Labs Project

The Council discussed the City Labs Project at the last Council Meeting. The City will partner with the Cities of St. Anthony and Falcon Heights and the Associated Colleges of the Twin Cities if selected for the grant. Projects identified by the cities will be incorporated into the students' curriculum with the outcomes being research and materials the City's identify.

Councilor Gaasch moved adoption of Resolution 012814B – A Resolution Supporting Application to the Associated Colleges of the Twin Cities for the CityLabs Program. Councilor Mac Lean seconded the motion and it passed unanimously

Additional Items

Inflow and Infiltration Grant

The Metropolitan Council is offering financial support to property owners to fix their private sewer lines in order to reduce "clean water" getting into the public sanitary sewer system. Butkowski stated that four residents have expressed interest in applying for a grant as of this time. The Council previously discussed limiting the grant to lining projects in order to protect the City's streets. Butkowski said this is proving difficult to implement. Unless the Council has reservations, she said she will submit all applications to the Metropolitan Council for consideration instead of just those for pipe lining.

Agenda items for the February 11 Council Meeting may include a discussion of the Larpenteur Avenue Pedestrian Improvement Project and Tobacco Ordinance revisions.

Mayor Dains explained that the Council was moving into the work session. Work sessions are a continuation of the meeting but not aired on community television. Mayor Dains asked if anyone wished to address the Council. No one came forward.

LAUDERDALE CITY COUNCIL
MEETING MINUTES
Lauderdale City Hall
1891 Walnut Street
Lauderdale, MN 55113

Page 3 of 3

January 28, 2014

Work Session:

Request for the Waiving of Permit Fees

A property owner is requesting the Council waive a building permit requirement and its associated fee as she has a disability and is also on a fixed income. Butkowski explained that staff have been working with the owner for an extended period of time to help her find the resources to raise or repair her garage. The property owner found a person to repair the garage but a permit was not applied for. Staff notified the owner of the need to pull a permit. After a number of conversations, staff received the letter that was included in the Council's packets. While the Council doesn't have the authority to waive the permit requirement, the Council can waive the fee. The Council felt that many residents are on fixed incomes and permit fees were not waived for them. Waiving the fee would set a precedent and could ultimately erode the funding needed to support the City's inspection program. Mayor Dains suggested offering a payment plan to the property owner if they were unable to pay the full amount for the permit.

Fun Run

The Council is interested in continuing the Fun Run in 2014. Kevin Kelly will take the lead in organization of the event with the City of Falcon Heights.

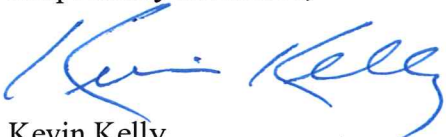
Community Development Update

Butkowski said she spoke with Croix Oil recently. They are slowly gearing up their redevelopment plans. Croix Oil also expressed their concerns regarding the draft tobacco ordinance.

The Phase II environmental report for 2430 Larpenteur Avenue was completed. The request for the "No Association" letter was sent to the MPCA. After the MPCA review, the closing for the property can be scheduled.

There being no further business on the council agenda, Councilor Gaasch moved to adjourn the meeting. Councilor Mac Lean seconded the motion and it carried. The meeting adjourned at 8:30 p.m.

Respectfully submitted,



Kevin Kelly
Deputy City Clerk

CITY OF LAUDERDALE

CLAIMS FOR APPROVAL

February 11, 2014 City Council Meeting

Payroll

01/31/14 Payroll: Direct Deposit # 501731-501743	\$10,239.35
01/31/14 Payroll: Payroll Liabilities, e-payments 854E-857E	\$8,477.62

Vendor Claims

02/11/14 Claims: Check #'s 22093-22109	\$24,767.76
02/11/14 Claims: Check #'s 22110-22113	\$8,935.71

SUBTOTAL \$52,420.44

Total Claims for Approval	\$52,420.44
----------------------------------	--------------------

CITY OF LAUDERDALE

01/30/14 8:20 AM

Page 1

*Claim Register©

013114pyrll

JANUARY 2014

Claim Type	Direct					
Claim#	3772	NORTH STAR BANK, CHECKING S	Ck# 000854E	1/29/2014		
Cash Payment	G 101-21703	FICA WITHHOLDING.		1/31/2014	Payroll	\$2,404.32
		Invoice				
Cash Payment	G 101-21701	FEDERAL TAXES		1/31/2014	Payroll	\$1,397.72
		Invoice				
Transaction Date	1/29/2014	Due 0	NORTH STAR CHE	10100	Total	\$3,802.04
Claim#	3773	ICMA RETIREMENT TRUST - 457	Ck# 000855E	1/29/2014		
Cash Payment	G 101-21705	ICMA RETIREMENT		1/31/2014	Payroll	\$1,363.16
		Invoice				
Transaction Date	1/29/2014	Due 0	NORTH STAR CHE	10100	Total	\$1,363.16
Claim#	3774	PERA	Ck# 000856E	1/29/2014		
Cash Payment	G 101-21704	PERA		1/31/2014	Payroll	\$1,817.06
		Invoice				
Transaction Date	1/29/2014	Due 0	NORTH STAR CHE	10100	Total	\$1,817.06
Claim#	3775	MN DEPARTMENT OF REVENUE	Ck# 000857E	1/29/2014		
Cash Payment	G 101-21702	STATE WITHHOLDING		1/31/2014	Payroll	\$1,495.36
		Invoice				
Transaction Date	1/29/2014	Due 0	NORTH STAR CHE	10100	Total	\$1,495.36
	Claim Type	Direct			Tota	\$8,477.62

Pre-Written Check	\$8,477.62
Checks to be Generated by the Compute	\$0.00
Total	\$8,477.62

CITY OF LAUDERDALE

02/07/14 12:56 PM

Page 1

***Check Detail Register©**

FEBRUARY 2014

Check Amt Invoice Comment

10100 NORTH STAR CHECKING

			Check Amt	Invoice	Comment
Paid Chk# 022093 2/11/2014 AFSCME					
G 101-21709	UNION DUES		\$111.38		01/14 Union Dues
Total AFSCME			\$111.38		
Paid Chk# 022094 2/11/2014 BUSINESS INTERIORS BY STAPLES					
E 202-49500-530	FURNITURE & EQUIPMENT		\$2,332.72		City Council Chairs
E 402-48000-531	OFFICE EQUIPMENT		\$913.70		Staff Chairs
Total BUSINESS INTERIORS BY STAPLES			\$3,246.42		
Paid Chk# 022095 2/11/2014 CITY OF FALCON HEIGHTS					
E 101-42100-321	FIRE CALLS		\$1,373.04		01/14 Fire Calls
Total CITY OF FALCON HEIGHTS			\$1,373.04		
Paid Chk# 022096 2/11/2014 CITY OF ROSEVILLE					
E 101-41200-306	CONSULTING FEES		\$635.67		2/14 IT Services
E 101-41200-391	TELEPHONE/PAGERS		\$85.00		2/14 Phone Services
Total CITY OF ROSEVILLE			\$720.67		
Paid Chk# 022097 2/11/2014 GOPHER STATE ONE-CALL					
E 101-43400-386	GOPHER STATE ONE CALL		\$16.05		1/14 Locates
Total GOPHER STATE ONE-CALL			\$16.05		
Paid Chk# 022098 2/11/2014 HUGHES AND JOSEPH					
E 101-41500-300	LEGAL FEES - PROSECUTING		\$850.00		1/14 Legal Fees
Total HUGHES AND JOSEPH			\$850.00		
Paid Chk# 022099 2/11/2014 INTEGRA					
E 101-41200-391	TELEPHONE/PAGERS		\$46.49		1/14 Fax Line
Total INTEGRA			\$46.49		
Paid Chk# 022100 2/11/2014 KONICA MINOLTA					
E 101-41200-401	COPIER CONTRACT		\$203.54		01/14 Copier Contract
Total KONICA MINOLTA			\$203.54		
Paid Chk# 022101 2/11/2014 LILLIE SUBURBAN NEWS					
E 101-41200-352	PUBLIC INFO NOTICES		\$130.00		Public Notice - Sum. Budget
E 101-41100-352	PUBLIC INFO NOTICES		\$20.00		Public Notice City Parks Ord.
Total LILLIE SUBURBAN NEWS			\$150.00		
Paid Chk# 022102 2/11/2014 MET-COUNCIL ENVIRONMENTAL SER.					
E 601-49000-387	WATER TREATMENT SERVICE		\$10,281.21		3/14 waste water treatment
otal MET-COUNCIL ENVIRONMENTAL SER.			\$10,281.21		
Paid Chk# 022103 2/11/2014 MINNESOTA GFOA					
E 101-41200-438	DUES & SUBSCRIPTIONS		\$60.00		HB Annual Dues
Total MINNESOTA GFOA			\$60.00		
Paid Chk# 022104 2/11/2014 NORTH SUBURBAN COMMUNICATIONS					

CITY OF LAUDERDALE

02/07/14 12:56 PM

Page 2

***Check Detail Register©**

FEBRUARY 2014

			Check Amt	Invoice	Comment
E 202-49500-329	CABLE FRANCHISE FEE		\$4,807.63		2014 Contribution to NSCC
	tal NORTH SUBURBAN COMMUNICATIONS		\$4,807.63		
<hr/>					
Paid Chk#	022105	2/11/2014	RAMSEY COUNTY, PROP REC & REV		
G 101-21706	HEALTH INSURANCE		\$440.96		2/14 Employee Insurance
E 101-42100-318	911 Dispatch		\$1,172.88		01/14 911 Dispatch
E 101-42100-355	MISC PRINTING/PROCESS SER		\$6.24		01/14 800 MHz radio license
E 101-41200-355	MISC PRINTING/PROCESS SER		\$25.00		2/14 Employee Insurance
	Total RAMSEY COUNTY, PROP REC & REV		\$1,645.08		
<hr/>					
Paid Chk#	022106	2/11/2014	RAPIT PRINTING		
E 101-41200-201	GENERAL SUPPLIES		\$279.66		1 Box of Receipts, logod envelopes
E 101-41200-353	NEWSLETTER PRINTING		\$7.32		1Q14 newsletter
	Total RAPIT PRINTING		\$286.98		
<hr/>					
Paid Chk#	022107	2/11/2014	WASTE MANAGEMENT		
E 101-43000-384	REFUSE DISPOSAL		\$203.74		2/14 PW Waste Refuse
	Total WASTE MANAGEMENT		\$203.74		
<hr/>					
Paid Chk#	022108	2/11/2014	XCEL ENERGY, CITY HALL		
E 101-43000-381	ELECTRIC		\$199.43		1/14 City Utilities
E 101-43000-383	GAS UTILITIES		\$509.12		1/14 City Utilities
	Total XCEL ENERGY, CITY HALL		\$708.55		
<hr/>					
Paid Chk#	022109	2/11/2014	XCEL ENERGY, STREET LIGHTING		
E 101-43000-380	STREET LIGHT UTILITY		\$56.98		1/14 Bridge Lights
	Total XCEL ENERGY, STREET LIGHTING		\$56.98		
	10100 NORTH STAR CHECKING		\$24,767.76		

Fund Summary

<u>10100 NORTH STAR CHECKING</u>	
101 GENERAL	\$6,432.50
202 COMMUNICATIONS	\$7,140.35
402 CAPITAL IMPROVEMENTS	\$913.70
601 SEWER UTILITIES	\$10,281.21
	<hr/>
	\$24,767.76

CITY OF LAUDERDALE

02/07/14 1:06 PM

Page 1

***Check Detail Register©**

FEBRUARY 2014

Check Amt Invoice Comment

10100 NORTH STAR CHECKING

Paid Chk# 022110 2/11/2014 CROIX OIL

E 602-49100-212	MOTOR FUELS	\$26.43	1/14 Motor Fuels
E 601-49000-212	MOTOR FUELS	\$26.43	1/14 Motor Fuels
E 101-43000-212	MOTOR FUELS	\$123.34	1/14 Motor Fuels
E 602-49100-212	MOTOR FUELS	\$47.52	12/13 Motor Fuels
E 601-49000-212	MOTOR FUELS	\$47.52	12/13 Motor Fuels
E 101-43000-212	MOTOR FUELS	\$221.75	12/13 Motor Fuels
Total CROIX OIL		\$492.99	

Paid Chk# 022111 2/11/2014 KENNEDY & GRAVEN

E 101-41500-305	LEGAL FEES - CIVIL	\$817.72	12/13 Legal Services
Total KENNEDY & GRAVEN		\$817.72	

Paid Chk# 022112 2/11/2014 ST PAUL REGIONAL WATER SERVICE

E 601-49000-382	WATER	\$9.62	4Q13 Water Service
E 101-45200-382	WATER	\$124.08	4Q13 Water Service
E 101-43000-382	WATER	\$41.55	4Q13 Water Service
Total ST PAUL REGIONAL WATER SERVICE		\$175.25	

Paid Chk# 022113 2/11/2014 STANTEC

E 602-49100-304	ENGINEERING	\$1,036.00	12/13 MS4 Permit
E 101-43400-306	CONSULTING FEES	\$222.00	12/13 Econ. Dev. Consulting
E 405-48500-304	ENGINEERING	\$6,191.75	12/13 Larpenteur Avenue Project
Total STANTEC		\$7,449.75	

10100 NORTH STAR CHECKING \$8,935.71

Fund Summary

10100 NORTH STAR CHECKING

101 GENERAL	\$1,550.44
405 TIF-PROJECTS	\$6,191.75
601 SEWER UTILITIES	\$83.57
602 STORM SEWER ENTERPRISE FUND	\$1,109.95
	\$8,935.71

ACTION REQUESTED	LAUDERDALE COUNCIL
Consent <u> X </u>	MEETING DATE <u>February 11, 2014</u>
Special <u> </u>	ITEM NUMBER <u>2014 Garbage Hauler Licenses</u>
Public Hearing <u> </u>	STAFF INITIAL <u>Jim</u>
Report <u> </u>	APPROVED BY ADMINISTRATOR <u> </u>
Discussion/Action <u> </u>	
Resolution <u> </u>	
Work session <u> </u>	

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

The following companies have submitted complete residential and/or commercial garbage hauler license applications for 2/1/14-1/31/15:

<u>Company</u>	<u>Residential Trucks)</u>	<u>Commercial Trucks</u>
Waste Management	1	6
Advanced Disposal	1	2
Allied Waste	2	3
Aspen Waste	0	2
Walter's	1	2

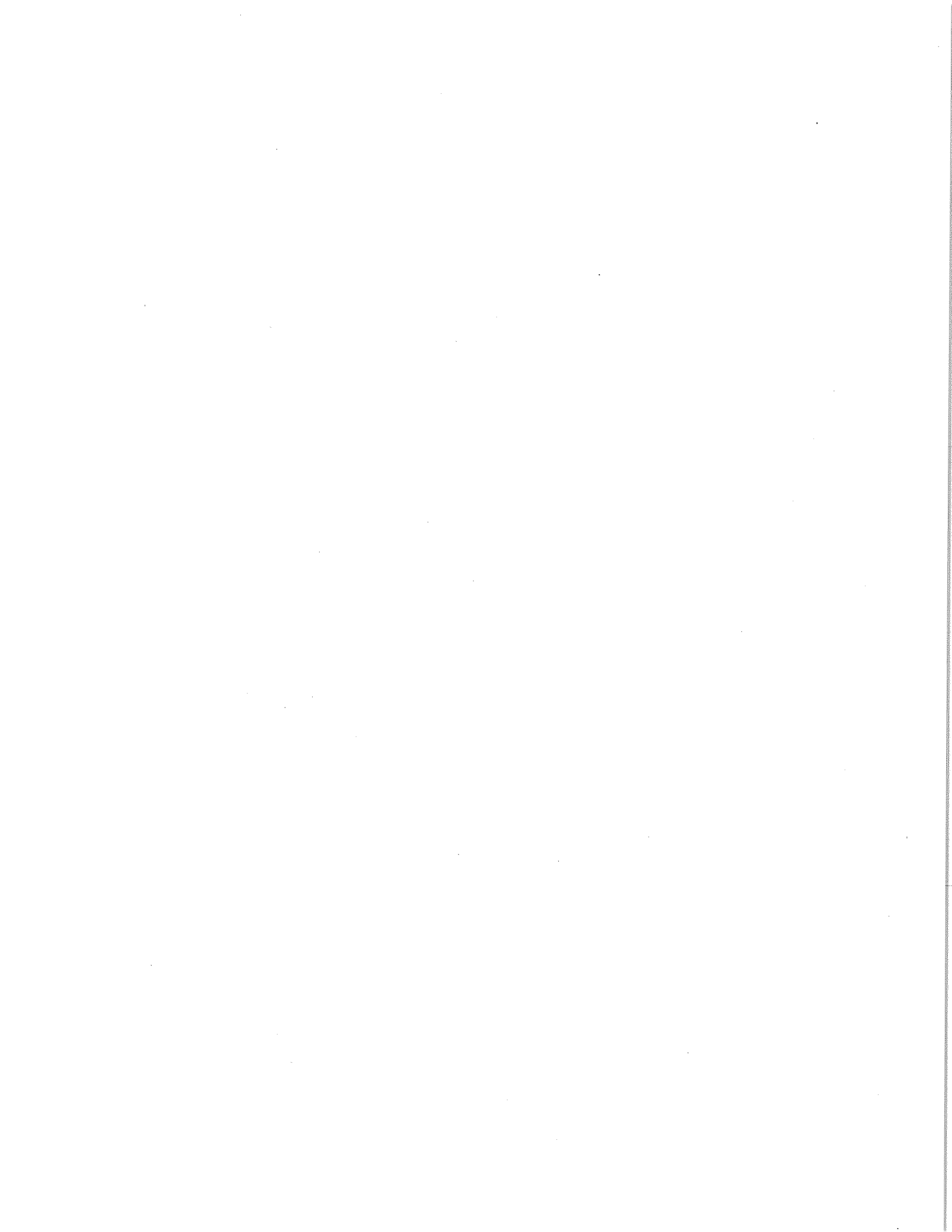
OPTIONS:

- 1) Approve as consent item.
- 2) Do not approve as consent item.

STAFF RECOMMENDATION:

By approving the consent agenda, the council is approving the 2014 garbage hauler licenses for the companies listed above.

COUNCIL ACTION:



**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion _____ X _____
Action _____
Resolution _____
Work Session _____

Meeting Date February 11, 2014

ITEM NUMBER Postal Service

STAFF INITIAL HB

APPROVED BY ADMINISTRATOR

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

As you know, the US Postal Service removed all of the blue mail boxes in the City. That has caused a hardship for many including City Hall. Postal service has been sporadic at best since they were removed as you will see in the attached letter.

I felt the changes to their service warranted an official letter from the City. Before sending it off I thought I would get your perspective.

OPTIONS:

STAFF RECOMMENDATION:



CITY OF LAUDERDALE
LAUDERDALE CITY HALL
1891 WALNUT STREET
LAUDERDALE, MN 55113
651-792-7650
651-631-2066 FAX

February 11, 2014

US Postal Service - Postmaster
Roseville Station
2000 County Road B2 W
Roseville, MN 55113-9998

Dear Postmaster,

I would like to call your attention to the mail service the City has been receiving recently. During the past few months, and particularly in the past few weeks, the service has been sporadic.

We are a place of business but are unable to rely on the Postal Service to deliver and pick up mail on a consistent basis. Four days between January 24 and January 31, mail was not delivered during our business hours of 8:00 a.m. - 4:30 p.m. This had two consequences. First, city staff had to bring the City's mail to their local post offices each evening. Second, the City did not receive incoming mail. A mail carrier made a special trip on January 29 to drop off City mail that had been accumulating at your station.

Previously, in the rare instances when staff didn't see the mail carrier before the end of the day, they simply dropped the City's mail into the collection box outside and it was picked up by the carrier when they got there. Two months ago the Postal Service removed this collection box and the box at the corner of Eustis Street and Larpenteur Avenue. While I appreciate the Postal Service's efforts to improve efficiency and cut costs, this has left the entire City of Lauderdale without a post office box.

City staff informed me that Lauderdale residents regularly stop by City Hall expressing their desire for at least one collection box in the City. Many of these requests are from our elderly and disabled residents. To assist them, staff now collects the mail from all of our residents for pick up with the City's mail so they also are impacted by the lack of regular mail service at City Hall. Staff has spoken to employees in your office on a number of occasions. I have asked them to continue calling when City Hall does not receive mail service until the issues are resolved.

I appreciate your attention to this matter. Please call our City Administrator, Heather Butkowski, if you have questions (651.792.7657). I also kindly ask that you inform her of your plans to improve mail service within the City.

Sincerely,

Mayor Jeff Dains
City of Lauderdale

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion X
Action _____
Resolution _____
Work Session _____

Meeting Date February 11, 2014

ITEM NUMBER Draft Tobacco Ordinance

STAFF INITIAL HB

APPROVED BY ADMINISTRATOR _____

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

The city attorney reviewed the draft ordinance. I have incorporated his changes. We are still discussing the language which would forbid sampling. Ron felt state law wasn't clear in regards to the prohibition. Friday I emailed him a court decision involving St. Anthony. The courts upheld St. Anthony's right to prohibit sampling. We'll finalize that language when Ron is back in the office next week.

Staff provided a draft of the ordinance to SuperUSA and Lauderdale BP management. We haven't received any comments from SuperUSA. Lauderdale BP ownership is very concerned with the penalty portion of the ordinance, which I briefly mentioned at the last meeting.

As a whole, BP ownership is concerned that the penalties being considered are more restrictive than the other communities in which they operate. They are especially concerned with the two-year revocation on a third violation. They feel that could put them out of business because tobacco drives traffic to convenience store. They said even after a seven-day suspension it would take time to bring back the customers that may have changed their shopping habits. They would like the Council to reconsider the penalties portion. They said the outcome will have an impact on their decision whether to rebuild. I can provide more details regarding my conversation with them at the Council meeting.

OPTIONS:

Discuss whether you would like to make any changes to the ordinance. By state law, the City must provide 30 days written notice to license holders of the date of the public hearing on the ordinance. Staff will set the date of the hearing and provide notice after this meeting.

STAFF RECOMMENDATION:

CITY OF LAUDERDALE

ORDINANCE NO. 14-02

An Ordinance Amending Section 3-6 of the Code of Ordinances regarding Tobacco and Tobacco-Related Devices and Products.

The city council of the city of Lauderdale ordains as follows:

SECTION I. The Lauderdale City Code is amended by deleting the ~~stricken~~ material and adding the underlined material as follows:

CHAPTER 6

CIGARETTES¹ TOBACCO, TOBACCO PRODUCTS, AND ELECTRONIC DELIVERY DEVICES

SECTION:

- 3-6-1: ~~Definitions~~Purpose
- 3-6-2: ~~License Required~~Definitions
- 3-6-3: ~~License Fee~~ Required
- 3-6-4: ~~Application~~Basis for Denial of License
- 3-6-5: ~~Investigation; Issuance~~Prohibited Sales
- 3-6-6: ~~Term Of License~~Self-Service Sales
- 3-6-7: ~~Separate License Required~~Responsibility
- 3-6-8: ~~Display Of License~~Compliance Checks and Inspections
- 3-6-9: ~~Penalty~~ Exceptions and Defenses
- 3-6-10: Violations and Penalties

3-6-1: PURPOSE

The purpose of this ordinance is to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statute, section 144.391.

3-6-2: DEFINITIONS:

The following words and phrases, as used in this Chapter, shall ~~for the purpose of this Chapter~~ have the meanings ~~respectively~~ ascribed to them in this Section, ~~except in those cases where the~~

~~1. M.S.A. § 461.12.~~

context clearly indicates a different meaning.

~~!DEF! CIGARETTE: Any roll for smoking made wholly or in part of tobacco, the wrap or cover of which is made of paper or any other substance or material except tobacco, irrespective of the size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient.~~

~~CIGARETTE PAPER AND CIGARETTE WRAPPER: Any paper or other substance or material, except tobacco, used as a wrapper or cover for a cigarette, as herein defined.~~

~~PERSON: Every natural person, firm, partnership, association or corporation.~~

COMPLIANCE CHECKS: The system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related devices, and electronic delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance.

ELECTRONIC DELIVERY DEVICES: 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 shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

INDIVIDUALLY PACKAGED: The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

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.

LOOSIES: The common term used to refer to a single cigarette or any other tobacco product that has been removed from its packaging and sold individually.

MINOR: Any natural person who has not reached the age of 18 years.

MOVABLE PLACES OF BUSINESS: Any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

RETAIL ESTABLISHMENT: Any place of business where tobacco, tobacco products, tobacco-related devices, or electronic delivery devices are available for sale to the general public.

SALE: Any transfer, conditional or otherwise of title or possession. Any transfer of goods for money, trade, barter, or other consideration.

SALE AT RETAIL: All sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale. (Ord. 8, 5-1-1969)
!DEFEND!

SMOKING: Inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or inhaling or exhaling vapor from any electronic delivery device. Smoking shall include carrying a lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation.

TOBACCO or TOBACCO PRODUCTS: Tobacco and tobacco products 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 including, but not limited to; cigars; cheroots; stogies; perique; granulated, plug cut, crimp 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.

TOBACCO-RELATED DEVICES. Tobacco-related devices includes any tobacco product as well as a pipe, rolling papers, ashtray, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

VENDING MACHINE. Any electric or electronic mechanical device which dispenses tobacco, tobacco products tobacco-related devices or electronic delivery devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco-related device.

3-6-23: LICENSE REQUIRED:

A. License Required TOBACCO RETAILER LICENSE REQUIRED: No person shall sell or offer for sale at retail within the City any cigarettes, cigarette paper or cigarette wrappers or in any manner represent or hold himself out as one who sells or offers for sale at retail any cigarettes, cigarette paper or cigarette wrappersto sell any tobacco, tobacco products, tobacco-related devices, or electronic delivery devices without first having obtained a license to do so

from the City Council. (Ord. 8, 5-1-1969)

~~3-6-3:~~ B. LICENSE FEE: A. Annual Fee: The annual license fee shall be as established from time to time by resolution of the City Council. No license shall be issued until the appropriate license fee is paid in full. ~~B. Proration:~~ For periods shorter than one year the license fee shall be the full amount. (Ord. 8, 5-1-1969; 1996 Code)

~~3-6-4:~~ C. APPLICATION: Every person or business desiring to obtain ~~such~~ a license to sell tobacco, tobacco products, tobacco-related devices, or electronic delivery devices shall file an application in writing with the City Clerk, ~~which.~~ The application must state the ~~true~~ full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name under which he shall conduct his business of the business for which the license is sought, whether such business is that of an individual, sole trader, proprietor, firm, partnership, or corporation and the address where ~~such~~ the business is to be conducted. ~~Said applicant shall also pay to the Clerk the annual license fee and the Clerk shall issue a receipt therefor.~~ If the City Clerk determines that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete. Upon receipt of a completed application and the annual license fee, the City Clerk shall forward the application to the City Council. (Ord. 8, 5-1-1969)

~~3-6-5:~~ D. INVESTIGATION¹; ISSUANCE: The City Clerk shall present ~~said~~ the application to the City Council and the City Council shall order such investigation as it deems necessary. After ~~such~~ the investigation, the City Council shall grant or deny the application. In the event of the application being granted, the City Clerk shall issue the license. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision as provided in 3-6-10. (Ord. 8, 5-1-1969)

~~3-6-6:~~ E. TERM OF LICENSE: The license shall expire on ~~July 1~~ December 31 following its issuance. (Ord. 8, 5-1-1969)

~~3-6-7:~~ F. SEPARATE LICENSE REQUIRED: A license shall permit the licensee to sell cigarettes, cigarette paper or cigarette wrappers at retail tobacco, tobacco-related products, tobacco devices, or electronic delivery devices at the one location specified in said license. A separate license shall be required for each location. (Ord. 8, 5-1-1969)

G: TRANSFERS: All licenses issued under this section shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. No transfer of any license to another location or person shall be valid without prior approval of the City Council.

H: MOVABLE PLACE OF BUSINESS: No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this section.

~~3-6-8:~~ I: DISPLAY OF LICENSE: The license shall be displayed by the licensee in a prominent

¹. See also subsection 2-4-2B2 of this Code.

and conspicuous place at the licensed location-so-licensed. (Ord. 8, 5-1-1969)

J: REVOCATION OR SUSPENSION: Any license issued under this section may be revoked or suspended as provided in 3-6-10.

K: ISSUANCE AS PRIVILEGE AND NOT A RIGHT: The issuance of a license under this section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

L: SMOKING PROHIBITED IN TOBACCO RETAIL ESTABLISHMENTS: Smoking shall not be permitted and no person shall smoke within the indoor area of any establishment with a tobacco retailer license. Smoking for the purposes of sampling tobacco, tobacco products, tobacco-related devices, or electronic delivery devices is prohibited.

3-6-4: BASIS FOR DENIAL OF LICENSE:

A. Grounds for denying the issuance or renewal of a license under this chapter include but are not limited to the following:

- i. The applicant is under the age of 18 years.
- ii. The applicant has been convicted within the past five years of any violation of federal, state, or local laws, ordinance provisions, or other regulation relating to tobacco, tobacco products, tobacco-related devices, or electronic delivery devices.
- iii. The applicant has had a license to sell tobacco, tobacco products, tobacco-related devices, or electronic delivery devices revoked within the preceding 12 months of the date of the application.
- iv. The applicant fails to provide any information required on the application, or provides false or misleading information.
- v. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license.

B. Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license.

C. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter.

3-6-5: PROHIBITED SALES:

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco

products, tobacco-related devices, or electronic delivery device as follows:

- a. By means of any type of vending machine.
- b. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive tobacco, tobacco products, tobacco-related devices, or electronic delivery devices and whereby there is not a physical exchange of the tobacco, tobacco products, tobacco-related devices, or electronic delivery devices between the licensee, or the licensee's employee, and the customer.
- c. By means of loosies.
- d. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.

3-6-6: SELF-SERVICE SALES: All tobacco, tobacco products, tobacco-related devices, or electronic delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public.

3-6-7: RESPONSIBILITY: All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco-related devices, or electronic delivery devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this chapter, state, or federal law, or other applicable law or regulation.

3-6-8: COMPLIANCE CHECKS AND INSPECTIONS: All licensed premises shall be open to inspection by the City's contracted police department or other authorized city official during regular business hours. From time to time, the City's contracted police department shall coordinate compliance checks by engaging minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or electronic delivery devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, tobacco-related devices, or electronic delivery devices when those items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or

her employee and shall produce any identification, if any exists, for which he or she is asked.

3-6-9: EXCEPTIONS AND DEFENSES: Nothing in this chapter shall prevent the providing of tobacco, tobacco products, tobacco-related devices, or electronic delivery devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

3-6-910: VIOLATIONS AND PENALTIES:

~~Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in Section 1-4-1 of this Code. (Ord. 8, 5-1-1969; 1996 Code)~~

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor under Minnesota Statute Section 609.03 as it may be amended from time to time by the Minnesota Legislature. The cost of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

A. GENERALLY. The license holder shall be responsible for the conduct of its agents or employees while on the licensed premises. Any violation of this article shall be considered an act of the license holder for purposes of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

B. NOTICE OF VIOLATION. Upon the occurrence of a violation, the police department shall inform the city administrator of the violation. The city administrator shall then send to the license holder a written notice of the civil violation. The notice shall advise the license holder of the penalty and the license holder's right to request a hearing regarding the violation of this article.

C. ADMINISTRATIVE CIVIL PENALTIES; LICENSEE: Each license issued hereunder shall be subject to suspension or revocation for violation of any provisions of this chapter or the laws of the State of Minnesota as follows:

- (i) First violation: The first violation of this chapter shall be punishable by a civil penalty of \$500.00.
- (ii) Second violation: A second violation of this chapter within any twenty-four-month period shall be punishable by a civil penalty of \$750.00.
- (iii) Subsequent violation: A third or subsequent violation of this chapter within any twenty-four-month period shall be punishable by revocation of the license plus a civil penalty of \$250.00. Any licensee whose license is revoked under this section shall not be eligible for renewal for a period of two years after the revocation.

D. HEARING: Following receipt of a notice of a violation and penalty issued under this section, the license holder or individual may pay the penalty or request a hearing before the City Council. A request for a hearing shall be made by the individual or license holder in writing and filed with the city administrator or designee within ten days of the mailing of the notice of the alleged violation. Following receipt of a written request for hearing, the individual or license holder shall be afforded an opportunity for a hearing before the council.

E. FINDINGS: If after the hearing the license holder or individual is found in violation of this chapter, the council shall impose the penalty.

F. DEFAULT: If the individual or license holder has been provided written notice of the violation and if no request for a hearing is filed within the ten-day period, then the civil penalty, suspension or revocation imposed in this chapter shall take immediate effect by default. The city administrator or designee shall mail notice of the fine, suspension, or revocation to the individual or license holder.

SECTION II. This ordinance shall be effective upon its adoption and summary publication in the City's official newspaper. Said publication shall read as follows:

Ordinance 14-02 amends Title 3, Chapter 6 of the Lauderdale Code of Ordinances in order to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices; to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco-related devices, and electronic delivery devices; to clarify the process to receive a tobacco retailers license; to prohibit sampling; to establish the basis for denial of a license; to prohibit certain sales; and to establish penalties and an appeal process for licensees that fail compliance checks.

A copy of the full ordinance is available for review at City Hall.

Adopted by the city council of the City of Lauderdale this XXnd day of XXXXXXXX, 2014.

Jeffrey Dains, Mayor

ATTEST:

Heather Butkowski, City Administrator

Published in the Roseville Review the XXth day of XXXXXXXX, 2014.

**LAUDERDALE COUNCIL
ACTION FORM**

Action Requested

Consent _____
Public Hearing _____
Discussion _____
Action _____
Resolution _____
Work Session X

Meeting Date February 11, 2014

ITEM NUMBER National League of Cities

STAFF INITIAL AB

APPROVED BY ADMINISTRATOR

DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:

Councilor Gaasch would like to discuss whether the City should become a member of the National League of Cities (NLC). She has gone to some of their trainings and thought they were really worthwhile.

I included a print out from the NLC website that describes who they are and what they do. Much like the League of Minnesota Cities (LMC) advocates (lobbies) for cities at the state level, the NLC advocates for cities at the federal level. They also provide an extensive amount of training much like the LMC.

The cost to join is \$536 for the year. Members receive discounted training fees so some or all of that money would be recouped if Councilors started attending their events.

Councilor Gaasch will be able to provide more details for the discussion at the meeting.

OPTIONS:

STAFF RECOMMENDATION:



About NLC

The National League of Cities (NLC) is dedicated to helping city leaders build better communities. Working in partnership with the 49 state municipal leagues, NLC serves as a resource to and an advocate for the more than 19,000 cities, villages and towns it represents

Who are NLC 's Members?

The National League of Cities members are municipalities from across the country. A city or town joins NLC and the elected officials and staff participate in NLC's programs, activities and governance. State municipal leagues are also active members of NLC, guiding the organization's priorities and serving as an important link to cities in their state. And, NLC offers membership opportunities for members of the private and non-profit sector.

Cities and Towns

More than 2,000 municipalities of all sizes pay dues directly to NLC and actively participate as leaders and voting members in the organization.

State Municipal Leagues

State Municipal Leagues occupy a special position within the National League of Cities as the founding members and serve as a conduit of communication with NLC for our mutual memberships. Through the state municipal league network, NLC represents over 19,000 cities and towns. View and search the member directory at myNLC.

Associate Members

The Associate Member Program is designed to meet with needs of corporations and other organizations who do business with America's cities and towns and need to stay on top of activity in this area. Associate Membership can provide the edge your company needs in the competitive local government marketplace of products, services and ideas.

Corporate Partners Program

This program promotes the exchange of ideas between corporate leaders and the leaders of America's cities in order to strengthen local government, encourage economic competitiveness, and promote corporate civic engagement. Participation in the NLC Corporate Partners Program is by invitation of the NLC Leadership.

SPOTLIGHT

NLC Benefits Members

- advocates for cities and towns in Washington, D.C. through full-time lobbying and grassroots campaigns
- provides programs and services that give local leaders the tools and knowledge to better serve their communities
- provides opportunities for involvement and networking to help city officials seek ideas, share solutions, and find common ground for the future
- keeps leaders informed of critical issues that affect municipalities and warrant action by local officials
- strengthens leadership skills by offering numerous training and education programs
- recognizes municipal achievements by gathering and promoting examples of best practices and recognizing cities and towns for model programs and initiatives
- partners with state leagues to supplement resources and strengthen the voice of local government in the nation's capital and all state capitols
- promotes cities and towns through an aggressive media and communications program that draws attention to city issues and enhances the national image of local government

STAFF CONTACT

Member Services
(877) 827-2385
memberservices@nlc.org

© 2013 National League of Cities | 1301 Pennsylvania Avenue NW Suite 550, Washington, DC 20004

