



City of Blaine Anoka County, Minnesota

Blaine City Hall
10801 Town Sq Dr NE
Blaine MN 55449

Legislation Text

File #: ORD 19-2430, Version: 2

CONSENT AGENDA - *Cathy Sorensen, City Clerk*

SECOND READING

ORDINANCE REPEALING ARTICLE IV. - FIRE, GOING OUT OF BUSINESS, OTHER SALES

First reading of this ordinance was held on June 17 and is being presented for second reading and adoption at this time.

As part of routine Code review, staff is recommending that Council consider repealing the Fire, Going Out of Business, Other Sales code. This ordinance was adopted in 1973 at the suggestion of the chamber of commerce and was based on models from Owatonna and the Village of Tyler; since then the ordinance has been rarely utilized. While Owatonna's ordinance is still in effect their staff was unsure of their council's reason for the ordinance and could not recall ever issuing a permit. A search of other Minnesota cities revealed no similar ordinances with the exception of Duluth, which repealed theirs in 1979. Staff also contacted the MetroNorth Chamber of Commerce to obtain their input and they did not see a need from a business standpoint for this code to remain.

While the ordinance did not include language regarding purpose staff believes the reason likely was to help identify actual store product was being closed out and not stolen goods. While the permit requires product inventory lists actually being able to track this inventory is not practical and potential stolen items would be reported just like any other stolen item; a permit would not assist in this case.

Hold second reading and adopt the proposed ordinance. If adopted, Council will be asked to also adopt a summary resolution that will serve to publish this lengthy ordinance repeal.

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown in brackets with overstrike.)

~~[ARTICLE IV. - FIRE, GOING OUT OF BUSINESS, OTHER SALES~~

Footnotes:

~~—(2)—~~

~~State Law reference- Prohibited going out of business sales, Minn. Stat. § 325.69, subd. 5.~~

~~DIVISION 1. GENERALLY~~

~~Sec. 22-141. Definitions.~~

The following words, 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:

Fire and other altered goods sale means a sale held in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

Going out of business sale means any sale advertised or held out to the public as a sale in anticipation of the imminent termination of a business, including any sale advertised or held out to the public as a going out of business sale, closeout sale, a loss of lease sale, a must vacate sale, a bankruptcy sale, or in any similar terms.

~~State Law reference- Similar provisions, Minn. Stat. § 325.69, subd. 5.~~

Goods means any wares, merchandise or other property capable of being the object of a sale regulated by the provisions of this article.

Removal of business sale means a sale held in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location or will then continue business from other existing locations.

~~(Code 1963, § 68.01; Code 1980, § 15-50; Ord. No. 320, 9-6-1973)~~

~~Cross reference- Definitions generally, § 1-2.~~

~~Sec. 22-142. Exempt persons.~~

~~The provisions of this article shall not apply to the following persons:~~

- ~~(1) Persons acting pursuant to an order or process of a court of competent jurisdiction;~~
- ~~(2) Persons acting in accordance with their powers and duties as public officials;~~
- ~~(3) Duly licensed auctioneers selling at auctions.~~

~~(Code 1963, § 68.02(8); Code 1980, § 15-51; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-143. Duties of licensee.~~

~~A licensee under this article shall:~~

- (1) *Adhere to inventory.* Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.
- (2) *Advertise properly.* Refrain from applying any untrue, deceptive or misleading advertising, and in all advertising of such sale shall disclose the true owner of the goods to be sold.
- (3) *Adhere to advertising.* Conduct a licensed sale in strict conformity with any advertising or holding out incident thereto.
- (4) *Keep duplicate inventory.* Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.
- (5) *Segregate noninventoried goods.* Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale, and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.

~~(Code 1963, § 68.13; Code 1980, § 15-62; Ord. No. 320, 9-6-1973)~~

~~Secs. 22-144-22-160.—Reserved.~~

~~DIVISION 2.—LICENSE~~

~~Sec. 22-161.—Required.~~

~~Except as specified in this division, no person shall conduct a sale regulated by the terms of this article unless a license therefor has been approved by the city manager and issued.~~

~~(Code 1963, 68.02(A); Code 1980, § 15-52; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-162.—Application; inventory.~~

~~A person desiring to conduct a sale regulated by this article shall make a written application setting forth and containing the following information:~~

- ~~(1) The true name and address of the owner of the goods to be the object of the sale;~~
- ~~(2) The true name and address of the person from whom the applicant purchased the goods to be sold and the price therefor, and if not purchased, the manner of such acquisition;~~
- ~~(3) The description of the place where such sale is to be held;~~
- ~~(4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;~~
- ~~(5) The dates of the period of time in which the sale is to be conducted;~~
- ~~(6) A full name and complete statement of the facts in regard to the sale, including the~~

reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;

- (7) The means to be employed in advertising such sale, together with the proposed content of any advertisement;
- (8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Such inventory shall be attached to and become part of the required application.
 - a. All goods included in such inventory shall have been purchased by the applicant for resale on bonafide orders without cancellation privileges and shall not comprise goods purchased on consignment.
 - b. Such inventory shall not include goods ordered in contemplation of conducting a sale regulated by this article. Any unusual purchase, or additions to the stocks of goods of the business hereby affected within 30 days before the filing of an application under this division shall be deemed to be of such character.

(Code 1963, § 68.03; Code 1980, § 15-53; Ord. No. 320, 9-6-1973)

~~Sec. 22-163.—Fee.~~

Any applicant for a license hereunder shall submit with the application the license fee. Any applicant for a renewal license hereunder shall submit with the renewal application a renewal license fee. The council may, by action, establish fees under this article.

(Code 1963, § 68.12; Code 1980, § 15-54; Ord. No. 320, 9-6-1973)

~~Sec. 22-164.—Term; extension.~~

- (a) The license shall authorize the sale described in the application for a period of not more than 30 consecutive days, Sundays and legal holidays excluded, following the issuance thereof.
- (b) The city manager may extend the term of a license for up to 30 consecutive days, Sundays and holidays excluded, when such officer finds that:
 - (1) ~~Facts exist justifying a license renewal;~~
 - (2) ~~The licensee has filed an application for renewal;~~
 - (3) The licensee has submitted with the application for renewal a revised inventory remaining unsold, and not listing any goods not included in the original application and inventory.
- (c) For the purposes of this section, any application for a license under the provisions of this article covering any goods previously inventoried as required under this article, shall be deemed to be an application for renewal, whether presented by the original applicant, or by

~~any other person.~~

~~(Code 1963, §§ 68.07, 68.08; Code 1980, § 15-55; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-165. Nontransferable.~~

~~Any license provided in this division shall not be assignable or transferable.~~

~~(Code 1963, § 68.11; Code 1980, § 15-56; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-166. Established business requisite.~~

~~Any person who has not been the owner of a business advertised or described in the application for a license under this article for a period of at least six months prior to the date of the proposed sale shall not be granted a license, except that upon the death of a person doing business within the city, such person's heirs, devisees or legatees have the right to apply any time for a license.~~

~~(Code 1963, § 68.04; Code 1980, § 15-57; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-167. Interval between sales.~~

~~A person who has held a regulated sale, at the location stated in the application, within one year prior to the date of such application, shall not be granted a license.~~

~~(Code 1963, § 68.05; Code 1980, § 15-58; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-168. Restricted location.~~

~~Where a person applying for a license operates more than one place of business, the license issued shall apply only to one location, or the branch specified in the application, and no other store or branch shall advertise or represent that it is cooperating with or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.~~

~~(Code 1963, § 68.06; Code 1980, § 15-59; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-169. Nature of sale.~~

~~The license shall authorize only the one type of sale described in the application at the location named therein.~~

~~(Code 1963, § 68.09; Code 1980, § 15-60; Ord. No. 320, 9-6-1973)~~

~~Sec. 22-170. Salable goods.~~

~~A license shall authorize only the sale of goods described in the inventory attached to the application.~~

~~(Code 1963, § 68.10; Code 1980, § 15-61; Ord. No. 320, 9-6-1973)~~
~~Secs. 22-171-22-200. Reserved.]~~

INTRODUCED AND READ in full the 17th day of June, 2019.

PASSED by the City Council of the City of Blaine this 8th day of July, 2019.