



TO: Gahanna City Council
Clerk of Council

FROM: Priya D. Tamilarasan, Esq., City Attorney

Cc: Mayor Laurie A. Jadwin
Senior Director Miranda Vollmer

DATE: June 20, 2024

SUBJECT: Department of Law – Request for Council Action (June 24, 2024 Committee of the Whole)

ACTION ITEMS

ACTION ITEM #1: REQUEST FOR ADOPTION OF ORDINANCE AMENDING SECTIONS 737.04, 737.14

On December 18, 2023, Council passed Ordinance 71-2023 adopting Chapter 737 of the Gahanna Codified Ordinances, Tobacco Product Sales, regulating the sale of tobacco products by requiring a Tobacco Retail License. This Ordinance required contracting with the Franklin County Public Health. Negotiations for this contract were put on hold when the state legislature overrode the Governor's veto on R.C. 9.681 which preempts Chapter 737. On April 9, 2024, the City of Gahanna joined in filing suit against the State of Ohio requesting a permanent injunction against the State in enforcing R.C. 9.681. This relief was granted to all named Plaintiffs on May 23, 2024. This case is currently being appealed, but there is no stay and the injunction currently stands. As such, negotiations have resumed with counsel for Franklin County Public Health.

Counsel has indicated that due to limitations in an administrative platform it is requested that we shift our licensing period to run from January 1 to December 31. I am recommending amending our ordinance to reflect the same. In order to address and encourage timely registrations for this year, at the suggestion from Franklin County Public Health counsel, I am recommending that this year's TRLs if applied for prior to September 1 be valid through December 31, 2025. I am also recommending a slight amendment to require applications to be received or postmarked by the deadline to reflect the terms of the contract with Franklin County Public Health.

Furthermore, due to our successful litigation regarding R.C. 9.681, we are lawfully seeking to regulate an area that was preempted by the State of Ohio albeit unconstitutionally. However, this position is in conflict with some of the language in Section 737.14. Moreover, we already have the severability section, 737.13. Therefore, I am recommending striking the first clause of 737.14.

Conclusion:

The Department of Law respectfully requests Council approve the aforementioned amendments.

Requested Legislation and Funding:

Legislation Needed:	Ordinance
Emergency/Waiver:	N/A
Vendor Name:	N/A
Vendor Address:	N/A
Already Appropriated:	N/A
Supplemental/Transfer:	N/A

Attachments:

LEG-ATT TRL Amendment - CLEAN
LEG-ATT TRL Amendment – REDLINE

Approvals:

This item has been approved by the City Attorney