



# City of Grand Island

Tuesday, June 24, 2008

Council Session

## Item E1

**Public Hearing on Request from The Cigarette Store Corp. dba Smoker Friendly/T & D Liquors, 802 West 2nd Street for a Class “C” Liquor License**

Staff Contact: RaNae Edwards

# Council Agenda Memo

**From:** RaNae Edwards, City Clerk

**Meeting:** June 24, 2008

**Subject:** Public Hearing on Request from The Cigarette Store Corp. dba Smoker Friendly/T & D Liquors, 802 West 2<sup>nd</sup> Street for a Class “C” Liquor License

**Item #'s:** E-1 & I-1

**Presenter(s):** RaNae Edwards, City Clerk

## Background

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:

- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
- (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
- (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## Discussion

The Cigarette Store Corp. dba Smoker Friendly/T & D Liquors, 802 West 2<sup>nd</sup> Street has submitted an application for a Class “C” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city.

This location is at the corner of Eddy Street and 2<sup>nd</sup> Street, west of the current Smoker Friendly store, formerly a pharmacy with a drive through window. Nebraska Liquor Control Commission Rules and Regulations Section 53-178.01 states: “No licensee shall

sell alcoholic liquor, including beer, to any person for consumption off the licensed premises while such person is in any manner within any motor vehicle. This section shall not apply to sales to handicapped persons in a motor vehicle displaying a current handicapped license plate issued by the Department of Motor Vehicles.”

Also included with the application was a request from Megan Kenney, PO Box 131, Phillips, Nebraska for a Liquor Manager designation.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission’s criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve the application.

### **Sample Motion**

Move to approve the application from The Cigarette Store Corp. dba Smoker Friendly/T & D Liquors, 802 West 2<sup>nd</sup> Street for a Class “C” Liquor License contingent upon final inspections and with the restriction that no alcohol or beer be sold through the drive-up window to anyone.

Also approve the request from Megan Kenney, P.O. Box 131, Phillips, Nebraska for Liquor Manager designation contingent upon Ms. Kenney completing a state approved alcohol server/seller training program.

INTEROFFICE  
MEMORANDUM  
*Police Department*



*Working Together for a  
Better Tomorrow. Today.*

DATE: June 13, 2008

TO: RaNae Edwards, City Clerk

FROM: Dave Vitera, Sergeant, Police Department

RE: Class D Liquor License Application – Smoker Friendly,  
724 W 2<sup>nd</sup> Street

The Grand Island Police Department received a liquor license application from Smoker Friendly, 724 West 2<sup>nd</sup> Street, Grand Island, Nebraska. All of the corporation owners/stockholders are from Colorado. The on-site store manager is Megan Kenney. Megan and her spouse, Derrick Kenny, are both Nebraska residents.

Background checks were conducted on Megan and Derrick Kenney. There were no inconsistencies in the information they revealed on the application. Fingerprint checks on the owners/stockholders from out of state will be handled by the Nebraska State patrol, Liquor Control Enforcement on behalf of the Nebraska Liquor Control Commission.

One issue was brought up during the investigation of this liquor application and that was the matter of the drive-up window at the Smoker Friendly facility. This is covered under the Nebraska State Statute 53-178.01, which prohibits the sale of liquor or beer to a person within any motor vehicle. There is an exception to handicapped persons in a motor vehicle displaying a current handicapped license plate issued by the Department of Motor Vehicles. I believe that a restriction can be placed on the business, if the business agrees with the restriction, that no alcohol or beer would be sold through the drive-up window (including bicycle, pedestrian, or handicapped traffic)

All of the above text was copied from Captain Falldorf's investigation in 2005. Megan and Derrick Kenney still meet the requirements for Megan to become a liquor manager. The Grand Island Police Department has no objections to Megan Kenney being the liquor manager at Smoker Friendly/T & D Liquor. However, with respect to the liquor license, we defer to the investigation conducted by the Nebraska State Patrol.

DV/rk *Dave Vitera*