1. Call To Order

Documents:

1. 2020-02-04 JOINT AGENDA.PDF

2. Naming Of Teepee Tonka Park Tunnel

Documents:

2. NAMING OF TEEPEE TONKA PARK TUNNEL.PDF

3. Prairie Park Concept Plan Recommendation

Documents:

3. PRAIRIE PARK CONCEPT PLAN RECOMMENDATION.PDF

4. Tobacco-21 Considerations

Documents:

4. TOBACCO-21 CONSIDERATIONS.PDF

5. Future Discussion

6. Adjourn - (The Council May Meet As A Group For Dinner)

Please contact the City Administrator's Office if you need special accommodations while attending this meeting
City Council Joint Committee
Tuesday, February 4, 2020 at 6:15pm or immediately following the Special City Council Meeting
City Hall – Public Meeting Room

AGENDA

1. Call to Order
2. Naming of Teepee Tonka Park Tunnel
3. Prairie Park Concept Plan Recommendation
4. Tobacco-21 Considerations
5. Future Discussion
6. Adjourn
(The Council may meet as a group for dinner)

Please contact the City Administrator’s Office if you need special accommodations while attending this meeting
Council Committee Memorandum

TO: Joint Council Committee
THROUGH: Tim Murray, City Administrator
FROM: Paul J. Peanasky, Parks and Recreation Director
MEETING DATE: February 4, 2020
SUBJECT: Naming of Teepee Tonka Tunnel

Discussion:
At the November 6, 2019, Joint Committee Meeting, an update of the project slated for Teepee Tonka Tunnel was provided. As part of the discussion, a historical sign was shown to Council and, for the most part, everyone approved of the concept. The one area of question was the name of the tunnel. Staff was asked to come up with more historical names for the tunnel besides Teepee Tonka Tunnel. Staff member Brad Phenow worked with Sue Garwood from the Rice County Historical Museum to do the research. Several names used in the past for the tunnel were found. They are:

- Root Cellar
- Sand-Rock Cave
- State School and Colony Root Cellar
- Teepee Tonka Tunnel

Staff is seeking direction on the name Council would like placed on the signs. Once this is decided, we can have the two signs made so they can be installed this spring.

Attachments:
- November 6, 2019, Memo
- Tunnel Sign
Discussion:
City Council originally accepted quotes on May 28, 2019, to light the tunnel at Teepee Tonka Park. In July, the contractor who was awarded the job withdrew their bid due to changes in staffing at his company. On July 23, City Council approved the second lowest bid for the project which was from Arrow Electric. Arrow Electric began working with Xcel Energy on getting power to the tunnels so they could install the lights. It was a long process with Xcel and when all preliminary work was done, Xcel stated they are scheduling work to begin December 15, 2019, weather permitting. Arrow Electric does not want to install the lights until there is power; therefore, the install will not happen until spring of 2020.

At the May 28 meeting, Council Member Viscomi asked for the tunnel to be painted, for a historical sign installed, to have the trail on both ends of the tunnel groomed and have a picnic table placed nearby. The grooming of the trail has been completed. A sample of the historical sign is included in your packet. If this satisfactory with Council, we will get the sign made. Cost of the sign is estimated at $1,000. A paint quote has been received from Bartness Painting for an estimated $4,820 which will include one primer coat and one top coat. A picnic table can be placed in future years.

While working with Xcel, vandals began knocking holes in the walls of the tunnels. As of early October, there were six holes that needed to be plugged and filled. We have a quote from Thompson Concrete to repair the walls at a cost of $5,100.

The City budgeted $28,000 for this project. Light cost is $11,772, sign is $1,000, and painting is $4,820. Xcel cost is still estimated at $5,000 for a subtotal of $22,592 plus $5,100 to repair the wall for a total of $27,692.

Attachments:
Sample of Historical Sign
In early 1937, a 21-member crew organized as part of the Works Progress Administration (WPA) — an ambitious employment and infrastructure program created by President Roosevelt in 1935 — began digging into the nearby 60-foot hill in an effort to construct one of three root cellars to store vegetables. The vegetable storage saved the State of Minnesota a substantial amount of money. At the time of construction, the school required 18,000 bushels (30 carloads) of potatoes, 3,000 bushels of carrots, 1,300 bushels each of beets and onions, and 40-50 ton of garbage to feed the 2,300 residents and 350 employees and staff members at the Minnesota School and Colony, later known as the Faribault State School and Hospital. With the exception of half the potatoes, all the vegetables consumed were grown on the school farm, but storage had long been an issue.

The workers were equipped with sharp, hard-pointed sandstone picks to dig through the hillside, and wheel barrows were used to move the loose earth, limestone, and shale. According to a June 22, 1937 Faribault Daily News article, "On the 121st day of digging, a workman's pick broke through the thin crust of rock which separated the two sections of tunnel and shots of both crews and the draft of air which blew through the opening proclaimed the most difficult part of the undertaking ... had been accomplished."

The 442-foot-long tunnel included 42 lateral bins that were 9-feet wide, 9-feet high and 16 feet long. The tunnel had a capacity of 23-30 carloads of vegetables.
Council Committee Memorandum

TO: Joint Council Committee
THROUGH: Tim Murray, City Administrator
FROM: Paul J. Peanasky, Parks and Recreation Director
MEETING DATE: February 4, 2020
SUBJECT: Prairie Park Concept Plan Recommendation

Discussion:
At the 11/6/2019 Joint Committee Meeting, when the Parks Master Plan was reviewed, there was also a discussion on the future concept of Prairie Park. We had received three site concepts from ISG for this park. Council discussion was regarding having some input into how the park would be developed. Council referred the site concepts back to the Parks and Recreation Board to make a recommendation to Council. The Parks and Recreation Board met on December 4, 2019, but did not have a quorum. They met again on January 22, 2020. They did have a quorum and made a recommendation. The draft minutes from that meeting are included in your packet.

Summarizing the meeting, the Board chose Site Concept B after lengthy discussion. Their main concern was finding a replacement for the ball fields at Teepee Tonka Park and also having a nice playground on the south end of town. There was discussion on rotating the fields so that home runs did not end up in adjacent property owners’ yards. They still wanted walking paths, bathrooms and as mentioned, a large playground and some open space.

Staff is seeking direction from Council regarding an option to move forward with the next steps for the development of the park.

Attachments:
- Prairie Park Concept Plans
- 11/6/2020 Joint Committee meeting notes
- Parks and Recreation Board Minutes - Draft
SITE CONCEPT A

EXISTING STORMWATER POND
EXISTING SINGLE FAMILY RESIDENTIAL
NEW PARKING LOT (60+/- SPACES)
NEW COMMUNITY PARK/PLAYGROUND
NEW BASEBALL FIELD
NEW RESTROOM/MAINTENANCE BUILDING
NEW PLAYGROUND
NEW SIDEWALK/TRAILS

Architecture + Engineering + Environmental + Planning
EXISTING STORMWATER POND
EXISTING SINGLE FAMILY RESIDENTIAL
NEW PARKING LOT (50+/- SPACES)
NEW COMMUNITY PARK/PLAYGROUND
NEW BASEBALL FIELD
NEW RESTROOM/MAINTENANCE BUILDING
NEW PLAYGROUND
NEW SIDEWALK/TRAILS
NEW FLEX/OPEN SPACE W/ FITNESS LOOP
NEW BATTING CAGES
NEW BASEBALL WARM-UP AREA
NEW POND EXPANSION FOR STORMWATER
NEW VEGETATED SCREEN
Sheet Number 03-03

PRAIRIE RIDGE PARK
FARIBAULT, MINNESOTA • 10-11-2019
ISG PROJECT NO. 19-22992

SITE CONCEPT C

KEY

A  EXISTING STORMWATER POND
B  EXISTING SINGLE FAMILY RESIDENTIAL
C  NEW PARKING LOT (20+/- SPACES)
D  NEW FLEX OPEN SPACE
E  NEW OPEN AIR PARK SHELTER
F  NEW COMMUNITY ORCHARD
G  NEW COMMUNITY GARDEN
H  NEW SIDEWALK/TRAILS
I  NEW NATURAL PLAY AREA
J  NEW VEGETATED SCREEN

FEET

0  25  50  100  150
3. Tier 3: Policy and Strategic Implementation Plans. City Staff will develop detailed policy and strategic implementation plans for the three planning efforts. The Tier 3 plans will ensure that the Tier 2 Plans do not simply “sit on the shelf.” City Staff, the Planning Commission, the City Council, and others will use the Tier 3 plans to make decisions affecting the community. City Staff will begin working on the Tier 3 plans early next year.

Wanberg also reviewed with the Joint Committee a substantially complete draft of the Parks, Trails, and Open Space Plan. Staff is in the process of coordinating with Perkins+Will on key refinements to the Plan and expect those refinements to be completed in the next two weeks. Staff will then work with Perkins+Will to finalize corrections to the text. A Final Plan will be ready for Council approval in December.

The Parks, Trails, and Open Space Plan includes the following major components:

1. Existing Conditions. The Plan analyzes all existing, parks, trails, and open space in Faribault. It also analyzes demographic characteristics based on park service areas so that our park facilities address the needs of the population in those service areas.

2. Vision and Guiding Principles. The Park Plan relates directly to the community values and strategic priorities identified in Community Vision 2040, which the City Council adopted several years ago. For example, Community Vision 2040 identifies “sense of community” as an important community value. The Parks, Trails, and Open Space Plan provides direction on how we can use the park system to strengthen our sense of community.

3. Master Plan Recommendations. Based on the community vision and guiding principles, the Parks, Trails, and Open Space Plan identifies the following six goals and it provides specific strategies to reach the goals:
   A. Diversify the park system;
   B. Improve connectivity to greenspace;
   C. Create accessibility for all (City Staff will provide an update on our ADA implementation efforts);
   D. Utilize gathering spaces;
   E. Create connections to natural areas and activate the rivers; and
   F. Use a sustainable approach to managing the park system.

4. Implementation. The Plan provides general direction on implementation. The Tier 3 document, which City Staff will complete, will provide specific implementation strategies.

The Joint Committee was supportive of the plan as presented.

Parks and Recreation Director Paul Peanasky provided the Joint Committee with an update on the future Prairie Park. ISG put together three concept plans. Councilor Viscomi was concerned with the price of the park as well as only having baseball fields at the park. Councilor Spooner wanted to be sure that if the park was used for ballfields that ample parking would be available. The Joint Committee also discussed setting up an ad hoc committee, however, decided that the Park Board should make the recommendations to the Council on the usage of Prairie Park.

Update on Teepee Tonka – RBNC Trail Tunnel

Parks and Recreation Director Paul Peanasky provided the Council with an update on the Teepee
MEMBERS PRESENT: Lola Brand, Sally Kramer, Chad Kreager, Elsie Slinger and Cheryl Sterling. MEMBERS ABSENT: Rahma Abdi, Bruce Krinke and Troy Temple. STAFF PRESENT: Director Paul Peanasky and Administrative Assistant Denise Hansen.

1) Meeting was called to order by Lola at 6:10 p.m.

2) Approval of Minutes: Motion made by Elsie, seconded by Sally to approve minutes of October 23, 2019. Motion passed.

3) Director’s Report:
   a) Cheryl Sterling: Board and Paul thanked Cheryl for 18 years of service to the Parks & Recreation Advisory Board. Paul presented Cheryl with a blanket in recognition of her years of service from 2002 to 2020. Paul stated there is a recognition night on February 6 for all past city board members.
   b) Heritage Preservation Commission (HPC): Paul presented an invitation to the Board to attend an HPC meeting on February 3 at 6:00 p.m. at Buckham West to discuss statewide and local historic preservation plans.

4) Requests to be Heard: None.

5) Old Business:
   a) Parks Master Plan: Master Plan was approved by City Council on December 22. Parks and Recreation Staff along with Dave Wanberg will now begin to plan steps including financing to implement the plan.
   b) Mural on Band Shell – West Wall: Nothing new to report.
   c) Inclusive Playground: Paul stated he has sent invitations for an inclusive playground meeting on Thursday, January 30, at 6:00 p.m. at Buckham West. Flagship Recreation will be present to discuss inclusive play options. Paul asked for a volunteer from the Board to be on the committee. Lola volunteered to serve on the committee.
   d) Mill Towns Trail/Northern Links Trail: Paul indicated he was informed to wait a year to apply for the TAP grant for the trail. Waiting would allow time to get agreements with the trailroad and DNR prior to applying for the grant.
   e) Tunnel Lighting, Signage & Painting: Xcel Energy has installed a meter for the lighting in the tunnel and plans are to install the lights in Spring 2020.
   f) Old Public Works Park Layout: City received an $800,000+ grant from Minnesota Pollution Control Agency (MPCA) for cleanup for the proposed park and apartment building sites. Per estimates for cleanup, the City will need to finance approximately $300,000 to complete cleanup. The apartment building presently proposed would have 114 units and the developer is currently working to finalize financing.
   g) Boards and Commission Recruitment: Nothing new to report.
6) New Business:
   a) **Prairie Park Concepts:** Board reviewed and discussed the three concept plans for development of Prairie Park. Board would like it to include a large playground area since it is more than a neighborhood park. Board discussed concern about having ample toilets, lights from the ball fields affecting nearby residents and also balls being hit into nearby backyards. Paul stated there would not be lights on the ball fields. Board suggested moving the two fields to the north side of the park to avoid balls being hit towards neighbor’s backyards. Board asked if two fields were enough if Teepee Tonka Park would no longer have ballfields. Paul stated he spoke with David Pribbenow, Youth Baseball Coordinator, and he indicated three fields would be nice but they could get by with two. Chad stated he would like to see three fields as well but also liked the flexibility of the two fields so the park can include other amenities. Boards discussed possibility of using Middle School fields and/or fields at North Alexander Park. Also, the Baseball Association would like fields built by Bell Field at North Alexander Park so that is a possibility. Paul stated Field 1 at Teepee Tonka Park gets the least damage when it floods so it might be possible to continue to use just Field 1 at that park. Board also asked if any land is available near Prairie Park for another field. Paul was not aware of anything available. After discussion, Board agreed to support Site Concept Plan B with two baseball fields. Motion was made by Elsie, seconded by Cheryl to approve Site Concept B for Prairie Park development with suggestions of rotating the baseball fields to the north part of the lot with the open space to the south, locate the trail around the outside of the park rather than through it and include a large playground area as well as sufficient toilets. Motion passed.
   b) **Parkland Village Park Options:** Motion made by Cheryl, seconded by Chad to approve the parkland dedication for Parkland Estates as presented in the original development plan in 2004. Motion passed.
   c) **New Board Member:** Mike Ross is the newly appointed Parks and Recreation Board member beginning in February. Mike will fill the vacancy left by Cheryl Sterling.
   d) **Pollinator Group:** The GROWS Pollinator Group is putting up displays in the corridor between the Community Center and the Library to promote pollinator gardens. They are also doing projects around the city to promote the gardens.

7) Other:
   a) **Bike Trails:** Lola asked for an update on the bike trails that CROCT was constructing in the city. Paul stated CROCT is still working with Shattuck-St. Mary’s to construct a trail on their property by the river. They are also still working on the trail at Spring Park. CROCT decided not to construct a trail at Teepee Tonka Park due to the flooding in that area.

8) **Next Meeting:** The next meeting is scheduled for Wednesday, February 26, 2020.

9) Motion was made by Cheryl, seconded by Elsie to adjourn at 7:04 p.m. Motion passed.

Respectfully submitted,
Denise Hansen, Administrative Assistant
Council Committee Memorandum

TO: Joint Council Committee
FROM: Tim Murray, City Administrator
MEETING DATE: February 4, 2020
SUBJECT: Tobacco-21 Considerations

Discussion:
On December 20, 2019, the President signed legislation to amend the Federal Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21 years. It is now illegal for a retailer to sell any tobacco product – including cigarettes, cigars and e-cigarettes – to anyone under 21.

Both the City Code of Ordinances (Ch. 14, Art. II) and State Statutes (Sec. 609.685) currently establish the minimum age to purchase, possess, and use tobacco products as 18 years old. This inconsistency results in some questions, including enforcement of the law among other things. Information provided by the League of Minnesota Cities (LMC) and a memorandum prepared by Kennedy and Graven (K & G) are attached that outline some of the issues that exist.

I would like to get Council direction on how you would like to proceed at this time. There are several options that you can consider:
- Update City Code of Ordinances now (age 18 to 21)
- Update after FDA regulation update(s)
- Update after State Statute revision(s)
- Other?

As pointed out in both the memorandum from Kennedy & Graven as well as the information laid out by the LMC, we will need to follow the procedures required under State Statute Sec. 461.19 to amend our ordinance. This requires a notice be sent to all license holders 30 days in advance of the Council meeting where the revisions to the ordinance would be considered. The two primary items within our ordinance will be changing the minimum age from 18 to 21, along with the definition of a “minor” concerning this ordinance. There are numerous occurrences of these throughout the ordinance—they are highlighted in the attached copy.
Attachments:
- City Ordinance – Ch. 14, Article II
- State Statute – Sec. 609.685
- LMC Information dated Jan. 21, 2020
- K & G Memorandum dated Jan. 7, 2020
- State Statute – Sec. 461.19
ARTICLE II. - TOBACCO AND TOBACCO-RELATED DEVICES AND PRODUCTS

Sec. 14-17. - Purpose and intent.

Because the city recognizes that many persons under the age of eighteen (18) years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco-related, and nicotine or lobelia delivery devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of eighteen (18) years and that those persons who reach the age of eighteen (18) years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government, this article shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia 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 nicotine or lobelia delivery devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minnesota Statutes, Section 144.391, as it may be amended from time to time. In making these findings, the city council accepts the conclusions and recommendations of the Center for Disease Control in its study entitled "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997," and of the following medical professionals in these medical journals: Khuder S.A., et al., "Age at Smoking Onset and its Effect on Smoking Cessation," Addictive Behavior 24 (5): 673-7, September-October 1999; D'Avanzo B., et al., "Age at Starting Smoking and Number of Cigarettes Smoked," Annals of Epidemiology 4 (6): 455-59, November 1994; Chen, J. & Millar, W.J., "Age of Smoking Initiation: Implications for Quitting," Health Reports 9 (4): 39-46, Spring 1998; Everett S.A., et al., "Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students," Preventative Medicine, 29 (5): 327-33, November 1999, copies of which are adopted by reference.

(Ord. No. 2012-06, § 1, 7-10-12)

Sec. 14-18. - Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following terms shall have the definitions given to them:

Compliance checks shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco-related, and nicotine or lobelia delivery devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors as authorized by this article. Compliance checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices for educational, research and training purposes, as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices.
**Individually packaged** shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually packaged 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** shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether opened or closed, covering more than fifty (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** shall mean the common term used to refer to a single- or individually-packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term "loosies" does not include individual cigars with a retail price, before any sales taxes, of more than two ($2.00) dollars per cigar.

**Minor** shall mean any natural person who has not yet reached the age of eighteen (18) years.

**Movable place of business** shall mean and refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

**Nicotine or lobelia delivery device** shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including 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 purchase.

**Retail establishment** shall mean any place of business where tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, restaurants, and drug stores.

**Sale** shall mean any transfer of goods for money, trade, barter or other consideration.

**Self-service merchandising** shall mean open displays of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer.

**Smoking** shall mean inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product. Smoking also includes 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** shall include 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; pipe tobacco; hookah tobacco, snuff; fine cut, dipping tobacco, moist snuff, snus and other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flour; cavendish; bidis, kretels, shorts, plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and all other kinds and forms of tobacco. This term 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** shall mean any tobacco product as well as pipes, water pipes, hookahs, rolling papers, ashtrays, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

**Vending machine** shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related 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.

(Ord. No. 2012-06, § 1, 7-10-12)

**Sec. 14-19. - License—Required.**

No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related device, or nicotine or lobelia delivery device without first having obtained a license to do so from the city.

(1) **Application.** An application for a license to sell tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city administrator shall forward the application to the council for action at its next regularly scheduled council meeting. If the administrator shall determine 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.

(2) **Action.** The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council approves the license, the administrator shall issue the license to the applicant. If the 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 council's decision.

(3) **Term.** All licenses issued under this article shall expire on December 31 of the year of issuance.

(4) **Revocation or suspension.** Any license issued under this article may be revoked or suspended as provided in section 14-27 of this article.

(5) **Transfers.** All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

(6) **Moveable 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 article.

(7) **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(8) **Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

(9) **Issuance as privilege and not a right.** The issuance of a license issued under this article 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.

(10) Each license issued under this article is subject to all of the following conditions:

a. The licensee must post signs in visible locations that prohibit loitering inside or near the front entrance of the retail establishment.
b. The licensee must fully light the interior of the retail establishment during business hours such that every part, corner, aisle, room, and section of the retail establishment is illuminated wholly.

c. The sales counter, store entrance, and interior of the retail establishment shall be visually recorded with a videotape or similar device at a quality level that allows the visual identification of patrons and employees. The recordings shall be maintained and made available to the police for five (5) calendar days before being reused.

d. The licensee must post a sign at front entrance of the retail establishment that prohibits minors from entering the retail establishment.

e. The licensee must fully cooperate with representatives from the City of Faribault when present at the retail establishment for city business purposes.

f. The licensee must maintain clean and clear front and rear entrances of the retail establishment.

g. The licensee must not make sales of items commonly used by drug users and drug dealers, including, but not limited to glass pipes, "dug-outs", one-hitters, grinders, measuring scales, and small bags.

h. The licensee may not supply matches to non-purchasing customers.

i. Each day of business, the licensee must inspect the parking lot and entrances of the retail establishment for litter and properly dispose of such litter.

j. The front windows of the retail establishment must be clear, untinted, and unobstructed, except that the signage required by this subsection must be posted in the windows. The licensee must also comply with the applicable provisions of chapter 9 of the Unified Development Ordinance of the City of Faribault.

k. The licensee must promptly remove any graffiti on the exterior of the retail establishment.

(Ord. No. 2012-06, § 1, 7-10-12; Ord. No. 2014-004, § 1, 4-8-14)

Sec. 14-20. - Same—Fees.

No license shall be issued under this article until the appropriate license fee is paid in full. License fees shall be set by the city council by resolution. License fees will not be prorated.

(Ord. No. 2012-06, § 1, 7-10-12)

Sec. 14-21. - Basis for denial.

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

(1) The applicant is under the age of eighteen (18) years.

(2) The applicant has been convicted within the past five (5) years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco, tobacco products, tobacco-related, or nicotine or lobelia delivery devices.

(3) The applicant has had a license to sell tobacco, tobacco products, tobacco-related, or nicotine or lobelia delivery devices revoked within the preceding twelve (12) months of the date of application.

(4) The applicant fails to provide any information required on the application, or provides false or misleading information.
The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding such a license.

Nonpayment by the applicant or the owner of the premises of any fees or charges owed to the city or county for the premises, including, but not limited to, utility charges and property taxes.

However, 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. 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 section.

Sec. 14-22. - Prohibited sales.

It shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device:

1. To any person under the age of eighteen (18) years.
2. By means of any type of vending machine.
3. 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 the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device between the licensee, or the licensee's employee, and the customer. A license holder who operates an establishment that sells only tobacco-related products may utilize self-service methods if the license holder prohibits anyone under eighteen (18) years of age from entering the establishment, unless accompanied by a parent or legal guardian, and the license holder conspicuously displays a notice prohibiting persons under eighteen (18) years of age from entering the establishment unless accompanied by a parent or legal guardian.
4. By means of loosies, as defined in section 14-18 of this article.
5. Containing opium, morphine, jimpson 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.
6. By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

Sec. 14-23. - Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging minors over the age of fifteen (15) years but less than eighteen (18) years, with the written consent of their parents or guardians, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia 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 nicotine or lobelia delivery devices when such items are obtained as a 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. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or trading purposes, or required for the enforcement of a particular state or federal law.

(Ord. No. 2012-06, § 1, 7-10-12)

Sec. 14-24. - Other illegal acts.

Unless otherwise provided, the following acts shall be a violation of this article:

1. **Illegal sales.** It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device to any minor.

2. **Illegal possession.** It shall be a violation of this article for any minor to have in his or her possession any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device. This subsection shall not apply to minors lawfully involved in a compliance check.

3. **Illegal use.** It shall be a violation of this article for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device.

4. **Illegal procurement.** It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device, and it shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco-related device, or nicotine or lobelia delivery device. This subsection shall not apply to minors lawfully involved in a compliance check.

5. **Use of false identification.** It shall be a violation of this article for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

6. **Smoking.** It shall be a violation of this article for a person to smoke within the indoor area of any establishment with a retail tobacco license. Smoking for the purposes of sampling tobacco and tobacco-related products is also prohibited.

(Ord. No. 2012-06, § 1, 7-10-12)

Sec. 14-25. - Violations and penalties.

(a) **Responsibility for employees’ actions.** All licensees under this article shall be responsible for the actions of their employees with regard to the sale of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices on the licensed premises, and the sale of such 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 employee to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

(b) **Penalties.**

1. **Licensees and employees.** Any licensee, and any employee of a licensee, violating this article shall be charged an administrative fine of seventy-five ($75.00) dollars for a first violation of this article; two hundred ($200.00) dollars for a second offense at the same licensed premises within a twenty-four-month period; and two hundred fifty ($250.00) dollars for a third or subsequent offense at the same location within a twenty-four-month period. In addition, after the third offense, the license shall be suspended for not less than seven (7) days. In lieu of the
imposition of any of the above penalties, the city administrator may recommend to the city council that the license of the violator, or the violator’s employer, be suspended or revoked.

(2) **Other individuals.** Other individuals found to be in violation of this article, shall be charged an administrative fine of fifty ($50.00) dollars, with the exception of **minors**.

(3) **Minors.** Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices, shall be subject to an administrative fine, or may be subject to tobacco-related education classes, diversion programs, community service, or another penalty that the city council believes would be appropriate and effective. The administrative fine or other penalty shall be established by the city council in its fee ordinance upon its consultation with interested parties consisting of the courts, educators, parents, and **minors** to determine an appropriate penalty for **minors** in the city.

(4) **Statutory penalties.** If the administrative penalties authorized to be imposed by Minnesota Statutes, Section 461.12, as it may be amended from time to time, differ from those established in this section, then the statutory penalties shall prevail.

(c) **Misdemeanor prosecution.** Nothing in this section shall prohibit the city from seeking misdemeanor prosecution for any violation of this article.

(d) **Continued violation.** Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. No. 2012-06, § 1, 7-10-12)

Sec. 14-26. - Notice of violation; hearing; appeals.

(a) **Notice.** Upon report of a violation, the violator shall be issued, either personally or by mail, a notice that sets forth the violation and the penalty therefor under section 14-25, and which shall inform the alleged violator of his or her right to a hearing on the matter. The notice shall state that a request for a hearing must be made to the city administrator within ten (10) business days of the date of notice.

(b) **Hearings.** If a person accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. If no request for a hearing is received by the city administrator within ten (10) working days of the date of the notice, the right to a hearing shall be deemed waived and the penalty shall be final.

(c) **Hearing officer.** If a hearing is requested, the city council shall appoint a hearing officer. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(d) **Decision.** A decision shall be issued by the hearing officer within ten (10) business days of the date of the hearing.

(e) **Record of decision.** If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officer’s reasons for finding a violation together with the penalty to be imposed, shall be recorded in writing, a copy of which shall be provided to the accused violator by personal delivery or mail. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator by personal delivery or mail. The hearing officer may modify the penalty previously imposed.

(f) **Costs.** If the violation is upheld or modified by the hearing officer, the city’s actual expenses incurred in holding the hearing up to a maximum of one thousand ($1,000.00) dollars shall be paid by the person requesting the hearing.

(g) **Appeals.** The decision of the hearing officer is final. Appeals of any decision of the hearing officer shall be made to the district court within ten (10) business days.
Sec. 14-27. - Exceptions and defenses.

Nothing in this article shall prevent the providing of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia 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 article for a person to have reasonably relied on proof of age as described by state law.

Secs. 14-28—14-41. - Reserved.
SALE OF TOBACCO TO CHILDREN.

Subdivision 1. Definitions. For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

(a) "Tobacco" means 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.

(b) "Tobacco-related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(c) "Electronic delivery device" means 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 includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified 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 marketed and sold for such an approved purpose.

Subd. 1a. Penalty to sell. (a) Whoever sells tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Subd. 2. Other offenses. (a) Whoever furnishes tobacco, tobacco-related devices, or electronic delivery devices to a person under the age of 18 years is guilty of a misdemeanor for the first violation. Whoever violates this paragraph a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.

(b) A person under the age of 18 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and who uses a driver's license, permit, Minnesota identification card, or any type of false identification to misrepresent the person's age, is guilty of a misdemeanor.

Subd. 3. Petty misdemeanor. Except as otherwise provided in subdivision 2, whoever possesses, smokes, chews, or otherwise ingests, purchases, or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices and is under the age of 18 years is guilty of a petty misdemeanor.

Subd. 4. Effect on local ordinances. Nothing in subdivisions 1 to 3 shall supersede or preclude the continuation or adoption of any local ordinance which provides for more stringent regulation of the subject matter in subdivisions 1 to 3.
Subd. 5. **Exceptions.** (a) Notwithstanding subdivision 2, an Indian may furnish tobacco to an Indian under the age of 18 years if the tobacco is furnished as part of a traditional Indian spiritual or cultural ceremony. For purposes of this paragraph, an Indian is a person who is a member of an Indian tribe as defined in section 260.755, subdivision 12.

(b) The penalties in this section do not apply to a person under the age of 18 years who purchases or attempts to purchase tobacco, tobacco-related devices, or electronic delivery devices while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

Subd. 6. **Seizure of false identification.** A retailer may seize a form of identification listed in section 340A.503, subdivision 6, if the retailer has reasonable grounds to believe that the form of identification has been altered or falsified or is being used to violate any law. A retailer that seizes a form of identification as authorized under this subdivision shall deliver it to a law enforcement agency within 24 hours of seizing it.

**History:** 1963 c 753 art 1 s 609.685; 1981 c 218 s 1,2; 1986 c 352 s 4; 1989 c 290 art 3 s 33,34; 1992 c 588 s 1; 1993 c 224 art 9 s 44,45; 1994 c 636 art 2 s 44; 1999 c 139 art 4 s 2; 2000 c 472 s 5-9; 2010 c 305 s 11; 2014 c 291 art 6 s 33
Federal Tobacco 21 Law: Answers to Common City Questions

The adoption of a federal law restricting the sale of tobacco products to anyone under age 21 has raised many questions related to city tobacco enforcement.

(Published Jan 21, 2020)

As of Dec. 20, changes to the Family Smoking Prevention and Tobacco Control Act prohibit retailers from selling tobacco products to anyone under the age of 21. The League has received many questions related to how the new law affects Minnesota cities.

Is our city required to enforce the new federal law?
The new law is enforced by the Food and Drug Administration (FDA) and does not call for any city action. The FDA is currently updating its regulations to enforce the new law with final adoption expected in the upcoming months.

Does that mean our city cannot enforce the new T-21 law? Not necessarily. It is now a violation of federal law for any retailer to sell tobacco products to anyone under the age of 21. Most city licensing ordinances require tobacco retailers to comply with all applicable state and federal laws.

If a retailer violates the federal law by selling to someone under 21, that retailer is most likely also violating the terms of a local tobacco retail license. Cities should review their current ordinances to determine how the new law applies to local regulations.

Should our city update its ordinance or wait for guidance from the FDA?
Cities that have not adopted their own T-21 regulations, in consultation with their city attorney, should review their ordinances and determine if changes are needed. Changing an ordinance may be necessary to ensure consistency with the federal law.
Cities are required to give at least 30 days mailed notice to current license holders prior to amending their current ordinances.

**Can our city adopt an ordinance specifically allowing tobacco sales to those over 18?**
No. While a city can still adopt a higher minimum age, the minimum age must be at least 21.

**Can we now use individuals between age 18-21 for compliance checks?**
State law still requires at least one compliance check to be done by a minor over age 15 but under age 18. Until the state law is changed, cities must perform at least one compliance check with an individual under age 18. Additional compliance checks must be consistent with city ordinance.

**How does the new law affect possession, use, and purchase provisions in our city ordinance?**
The new federal law does not regulate the possession, use, or purchase (PUP) of tobacco products. Cities will need to consult their city attorney to determine if the new law has any effect on existing PUP provisions.

The League will be tracking this issue and updating its members as new information becomes available.

For more background information on this topic, read a previous Cities Bulletin article.

Read the current issue of the Cities Bulletin

* By posting you are agreeing to the LMC Comment Policy.
MEMORANDUM

To: Scott J. Riggs
From: Joseph L. Sathe
Date: January 7, 2020
Re: Tobacco Sales

Must municipalities enforce the new federal minimum age for tobacco sales?

No. The minimum age for tobacco sales was changed from 18 to 21 only in federal law and municipalities are responsible for enforcing their own codes. In the future, municipalities will have to come into compliance with Minnesota Statutes when they are updated to match the new federal minimum age. It is unclear at this time when this update will occur.

May retailers still sell flavored tobacco “pods”?

The FDA released guidance providing that companies must cease manufacture, distribution, and sale of unauthorized flavored cartridge-based-e-cigarettes (other than tobacco and menthol) by February 2, 2020 or risk FDA enforcement actions. The guidance only applies to closed-cartridge systems. Flavored liquid for use in open tank systems may still be sold and is exempted from the new guidance.

MINIMUM AGE REQUIREMENTS

Federal Law Updated

The federal minimum age of sale for tobacco products was amended as part of the 2019 federal spending bill, and the Federal Drug Administration’s (FDA) website now hosts the following statement:

“On December 20, 2019, the President signed legislation to amend the Federal Food, Drug, and Cosmetic Act, and raise the federal minimum age of sale of tobacco products from 18 to 21 years. It is now illegal for a retailer to sell any
tobacco product – including cigarettes, cigars and e-cigarettes – to anyone under 21.” (Selling Tobacco Products in Retail Stores).

The new legislation did three main things:

- Increased the minimum purchase age from 18 to 21 in all pertinent federal laws
- Enabling regulations for tobacco product sales are similarly amended to increase the minimum age of consent from 18 to 21
- The Federal Drug and Cosmetic Act includes a new subsection which states: “Minimum Age of Sale – It shall be unlawful for any retailer to sell a tobacco product to any person younger than 21 years of age.”

Therefore, retailers who sell any tobacco product to anyone under the age of 21 may face enforcement action from the FDA.

Minnesota Statutes Have Not Changed

Minnesota Statutes, section 609.685 establishes the minimum age for tobacco purchases as 18. Until the Minnesota Legislature updates this statute, there is no state-level enforcement mechanism for sales to and purchases of tobacco by individuals ages 18-20.

The enforcement mechanism for the federal government to compel states to come into compliance with the new minimum age is that states who are not in compliance with the new reporting and enforcement rules within 3 years may have up to 10% of the state’s federal grant money withheld by U.S. Department of Health and Human Services.

Municipal Codes Have Not Changed

Once Minnesota Statutes, section 609.685 is updated, municipalities will be required to come into compliance with the new federal minimum age requirements. Until that time, municipalities are only able to enforce their own regulations.

If a municipality wishes to update their minimum age requirements to be in sync with federal law, they may do so, but must follow the statutorily required process. This includes Minnesota Statutes, section 461.19’s requirement that notice must be sent, providing the time, place, and date of the meeting and subject matter of the proposed ordinance, to all license holder’s last known address at least 30 days prior to any action.

**FLAVORED ENDS PRODUCTS**

In addition to the new minimum age for tobacco sales, the FDA is developing new regulations related to flavored electronic delivery system (ENDS) products. The FDA recently released new guidance regarding ENDS products.
New Guidance

On January 2, 2020, the FDA released its enforcement policy regarding ENDS products which states that the FDA will prioritize enforcement against: Any flavored, cartridge-based ENDS product (other than a tobacco- or menthol-flavored ENDS product); All other ENDS products for which the manufacturer has failed to take (or is failing to take) adequate measures to prevent minors’ access; and Any ENDS product that is targeted to minors or whose marketing is likely to promote use of ENDS by minors. (FDA Finalizes Enforcement Policy On Unauthorized Flavored Cartridge-Based-E-Cigarettes That Appeal To Children, Including Fruit and Mint).

The FDA will begin these enforcement priorities on February 2, 2020.

This new guidance seeks to remove all flavored closed cartridge pods, except menthol and tobacco flavored pods. Also exempted in the guidance are e-liquids used in open tank systems.

However, these products could go back on the market. The guidance seeks to enforce “unauthorized” tobacco products. By May 12, 2020, e-cigarette products must be submitted to the FDA for premarket authorization. Should the FDA decide that any of the products submitted provide a “net health benefit” they could be allowed back on the market. The press release from the FDA specifically states “the FDA’s enforcement priorities are not a ‘ban’ on flavored cartridge-based ENDS” (Id).

This new guidance provides industry direction on how the FDA will be enforcing federal law related to products that must be approved by the FDA prior to going on the market. It does not impact how municipalities will be required to enforce their own regulations.

UPCOMING ACTIONS IMPACTING TOBACCO REGULATIONS

February 11, 2020 – Minnesota Legislature reconvenes – Once the Legislature convenes, it could act to come into compliance with the new minimum age requirements. Once this occurs, there will be additional clarity on the timeline for municipalities to come into compliance.

May 12, 2020 – FDA Premarket Authorization Deadline – Following this submission deadline, the FDA could approve some of the flavored tobacco products that the new FDA guidance on unauthorized tobacco products now restricts. Municipalities should be aware of this action as there will likely be inquiries from constituents.

CONCLUSION

Municipalities have the same enforcement responsibilities they had prior to the December 20, 2019, federal legislation: they are responsible for enforcing the minimum age requirement contained in their code. Retailers are required to follow the new federal law and the federal government could choose to hold those retailers accountable through their own enforcement mechanisms.
461.19 EFFECT ON LOCAL ORDINANCE; NOTICE.

Sections 461.12 to 461.18 do not preempt a local ordinance that provides for more restrictive regulation of sales of tobacco, tobacco-related devices, electronic delivery devices, and nicotine and lobelia products. A governing body shall give notice of its intention to consider adoption or substantial amendment of any local ordinance required under section 461.12 or permitted under this section. The governing body shall take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known address of each licensee or person required to hold a license under section 461.12. The notice shall state the time, place, and date of the meeting and the subject matter of the proposed ordinance.

History: 1997 c 227 s 7; 2014 c 291 art 6 s 30