

# City Council/Manager

**Sept 10, 2019 – Immediately  
following HRA Work Session**

Council Conference Room  
Golden Valley City Hall

## REGULAR MEETING AGENDA

### Pages

1. Tobacco Regulation Update
2. Glenwood Ave Bike Lane Plan and Parking Restrictions
3. Proposed Budgets and Capital Improvement Program
  - a. 2020-2021 Proposed Other Funds Budget
  - b. 2021-2029 Proposed Capital Improvement Plan
  - c. 2020-2021 Proposed General Fund Budget & Levy
4. Council Review of Future Draft Agendas: City Council September 17, City Council Wednesday, October 2 and Council/Manager Thursday, October 10, 2019

Council/Manager meetings have an informal, discussion-style format and are designed for the Council to obtain background information, consider policy alternatives, and provide general directions to staff. No formal actions are taken at these meetings. The public is invited to attend Council/Manager meetings and listen to the discussion; public participation is allowed by invitation of the City Council.



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# MEMORANDUM

## City Administration

763-593-8006 / 763-593-8109 (fax)

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### Executive Summary

#### Golden Valley Council/Manager Meeting

September 10, 2019

#### Agenda Item

1. Tobacco Regulation Update

#### Prepared By

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Kris Luedke, City Clerk

#### Summary

At the August 13 Council/Manager meeting, the Golden Valley City Council discussed changes to the City's regulation of tobacco sales. At the meeting, the Council directed staff to prepare a draft ordinance for further discussion at the September 10 Council/Manager meeting. The draft ordinance includes the following new policies:

1. Updating the definitions to encompass new technologies, nicotine products, and tobacco and nicotine delivery devices
2. Updating the licensing requirements and grounds for denial to more closely match similar requirements in other licensing sections of City Code
3. Updating the license application and background check processes to more closely match similar requirements in other licensing sections of City Code
4. Prohibiting the sale of flavored tobacco, including menthol, at all retailers other than those deriving 90% or more of profits from the sale of tobacco
5. Prohibiting the sale of tobacco at pharmacies
6. Prohibiting the sale of tobacco to people under 21 and requiring retailers to post signs stating the legal age requirements
7. Capping the amount of tobacco licenses issued by the City
8. Increasing the minimum price for certain tobacco products
9. Prohibiting free samples
10. Requiring liquid nicotine products to be sold in child proof packaging (as is required under federal law)
11. Allowing additional compliance checks to ensure compliance with the new legal age requirements

At the August 13 meeting, the Council also expressed interest in pursuing restrictions related to the location and density of retail tobacco establishments in the City, as well as additional signage regulations. These policies are not included in the draft because they relate to regulations that are codified in the zoning section of City Code. Staff continues to study these issues and will bring these policy items back to the Council later this year as part of a larger discussion of changes to the zoning code. On August 20, 2019, the Council passed a six-month moratorium on new tobacco licenses while these issues are studied.

Staff would like Council's feedback on the proposed ordinance. If directed by Council, the ordinance will be submitted for consideration at the October 2 and 15 regular City Council meetings. Public hearings are required at both meetings.

### **Budget Impact**

The proposed ordinance contains several new requirements and prohibitions. Staff anticipates additional staff time will be required to educate retailers on the new requirements, conduct additional compliance checks, and effectively enforce the new requirements. Staff recommends increasing the license fee from \$275 to \$450 to cover increased enforcement costs. If directed by Council, staff will propose this change as part of the regular fee schedule updates for 2020.

### **Attachments**

- Proposed Tobacco Licensing Ordinance (11 pages)
- Comparison of Current Tobacco Licensing Ordinance and Proposed Tobacco Licensing Ordinance (15 pages)

**PROPOSED TOBACCO  
LICENSING ORDINANCE**

## ARTICLE VI. - TOBACCO

### Sec. 16-157. - Purpose and Intent.

Because the City recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 18 violates both state and federal laws; and because studies, which the City accepts and adopts, have shown that youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because nearly 90% of smokers begin smoking before they have reached the age of 18 years, and that almost no one starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used menthol, mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government, this ordinance is intended to regulate the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious health effects associated with tobacco use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minn. Stat. § 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 U.S. Surgeon General reports, *E-cigarette Use Among Youth and Young Adults* (2016), *The Health Consequences of Smoking — 50 Years of Progress* (2014) and *Preventing Tobacco Use Among Youth and Young Adults* (2012); the Centers for Disease Control and Prevention in their studies, *Tobacco Use Among Middle and High School Students — United States, 2011–2015* (2016), and *Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997* (1998); and of the following scholars in these scientific journals: Chen, J., & Millar, W. J., *Age of smoking initiation: implications for quitting*. HEALTH REPORTS, 9(4), 39–46 (1998); D’Avanzo, B., La Vecchia, C., & Negri, E., *Age at Starting Smoking and Number of Cigarettes Smoked*, ANNALS OF EPIDEMIOLOGY, 4(6), 455–459 (1994); Everett, S. A., Warren, C. W., Sharp, D., Kann, L., Husten, C. G., & Crossett, L. S. *Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students*, PREVENTIVE MEDICINE, 29(5), 327–333 (1999); Giovino, G. A., *Epidemiology of Tobacco Use in the United States*, ONCOGENE, 21(48), 7326–7340 (2002); Khuder, S. A., Dayal, H. H., & Mutgi, A. B., *Age at Smoking Onset and its Effect on Smoking Cessation*. ADDICTIVE BEHAVIORS, 24(5), 673–677 (1999); Luke, D. A., Hammond, R. A., Combs, T., Sorg, A., Kasman, M., Mack-Crane, A., Henriksen, L., *Tobacco Town: Computational Modeling of Policy Options to Reduce Tobacco Retailer Density*, AMERICAN JOURNAL OF PUBLIC HEALTH, 107(5), 740–746 (2017); MINNESOTA DEPARTMENT OF HEALTH, DATA HIGHLIGHTS FROM THE 2017 MINNESOTA YOUTH TOBACCO SURVEY, SAINT PAUL, MN (2018); Tobacco Control Legal Consortium, *The Verdict Is In: Findings from United States v. Phillip Morris, The Hazards of Smoking*, University of California — San Francisco (2006); Truth Tobacco Industry Documents,

<https://www.industrydocumentslibrary.ucsf.edu/tobacco/>; Xu, X., Bishop, E. E., Kennedy, S. M., Simpson, S. A., & Pechacek, T. F., *Annual Healthcare Spending Attributable to Cigarette Smoking: An Update*, AMERICAN JOURNAL OF PREVENTIVE MEDICINE, 48(3), 326–333 (2015), copies of which are adopted by reference.

#### Sec. 16-158. - Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted 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:

*Child-Resistant Packaging.* Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.”

*Cigar.* Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

*Compliance Checks:* The system the City uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this article. Compliance checks involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes, or for investigating or enforcing Federal, State or local laws and regulations relating to licensed products.

*Electronic Delivery Device.* Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. 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 U.S. 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.

*Flavored Product.* Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

*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. A standard window screen (0.011 gauge with an 18 by 16 inch mesh count) is not considered a wall.

*Licensed Product:* The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

*Loosies:* Loosies means (1) single or individually packaged cigars or cigarettes offered for sale, regardless of whether they have been removed from their original retail packaging, and (2) any other licensed product that has been removed from its original retail packaging and offered for sale. Loosies does not include individual cigars with a retail price, after any discounts are applied and before any sales taxes are imposed, of at least \$3.00 per cigar.

*Moveable Place of Business:* Any form of business operated out of a kiosk, 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 Product:* Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration as a tobacco-cessation product, a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

*Pharmacy.* A place of business at which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.

*Retail Establishment:* Any place of business where licensed products are available for sale to the general public, including, but not be limited to, grocery stores, tobacco products shops, convenience stores, gasoline service stations, bars, and restaurants.

*Sale:* Any transfer of goods for money, trade, barter or other consideration.

*Self-Service Merchandising:* Open displays of licensed products in any manner where any person has access to the licensed products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention means the actual physical exchange of the licensed product between the customer and the licensee or employee.

*Smoking:* Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco,

marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.

*Tobacco.* 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 cigarettes; 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 does not include any product that has been approved by the U.S. 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 Device.* Any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. Tobacco related device includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco related devices may or may not contain tobacco.

*Vending Machine.* Any mechanical, electric or electronic, or other type of device that dispenses licensed products upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the licensed product.

Sec. 16-159. - License.

- (a) *License Required.* No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the City.
- (b) *Application.* An application for a license to sell licensed products 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 Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk determines that an application is incomplete, they shall return the application to the applicant with notice of the information necessary to make the application complete.

A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the

interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

- (c) *Action.* The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council approves the license, the City Clerk shall issue the license to the applicant. 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. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.
- (d) *Term.* All licenses issued under this article shall be valid for one calendar year from the date of issue.
- (e) *Revocation or Suspension.* Any license issued under this article may be revoked or suspended as provided in Section 16-168.
- (f) *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. The transfer of any license to another location or person is prohibited.
- (g) *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- (h) *Renewals.* The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- (i) *Issuance as Privilege and Not a Right.* The issuance of a license issued under this article is a privilege and does not entitle the license holder to automatic renewal of the license.
- (j) *Maximum Number of Licenses.* The number of licenses issued under this section shall be capped at the number of licenses in place on January 1, 2020. Any decrease in the number of licenses that occurs after January 1, 2020 due to attrition will decrease the number of available licenses to that extent until the number of available licenses reaches 8. When the maximum number of licenses has been issued, the City may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as existing licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid license will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.

#### Sec. 16-160. - Fees.

No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be established by the City Council and adopted in the City fee schedule, and may be amended from time to time.

#### Sec. 16-161. – Ineligibility and Basis for Denial of License.

- (a) *Ineligibility.*

- (1) *Pharmacies.* No existing license will be eligible for renewal to any pharmacy, including any retail establishment that operates or contains an on-site pharmacy, and no pharmacy or any retail establishment that operates an on-site pharmacy will be granted a new license.
  - (2) *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.
- (b) *Grounds 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 21 years.
  - (2) The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.
  - (3) The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to licensed products.
  - (4) The applicant has had a license to sell licensed products suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.
  - (5) The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.
  - (6) The applicant is the spouse of a person ineligible for a license pursuant to the provision of Subsections (b)(2) and (3) of this section or who, in the judgement of the Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.
  - (7) The applicant fails to provide any information required on the application, or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.
- (c) The City shall conduct a background investigation on all new applications and applications to transfer a license. The City may conduct a background and financial check on an application for a renewal of a license if it is in the public interest to do so. 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 article and the City shall provide the person with a notice of revocation, along with information on the right to appeal.

- (d) No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. ch. 278, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.

Sec. 16-162. - Prohibited Acts.

- (a) *In general.* No person shall sell or offer to sell any licensed product:

- (1) By means of any type of vending machine.
- (2) By means of self-service merchandising.
- (3) By means of loosies as defined in Section 16-158.
- (4) Containing opium, morphine, jimson weed, belladonna, 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.
- (5) That is liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used
- (6) By any other means, to any other person, on in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

- (b) *Legal Age.* No person shall sell any licensed product to any person under the age of 21.

- (1) *Age verification.* Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.
- (2) *Signage.* Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

- (c) *Flavored Products.* No person shall sell or offer for sale any flavored products. This prohibition does not apply to retail establishments that:

- (1) Prohibit persons under 21 from entering at all times;
- (2) Derive at least 90 percent of their gross revenues from the sale of licensed products; and
- (3) Meet all of the following building or structural criteria:
  - a. Shares no wall with, and has no part of their structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass throughs to the adjacent retailer;
  - b. Shares no walls with, and has no part of their structure directly adjoined to, another licensed tobacco retailer; and
  - c. Is accessible by the public only by an exterior door.

Any retail establishment that sells flavored products must, upon request, provide financial records documenting its annual sales to the City.

- (d) *Minimum Cigar Price.* No person shall sell or offer to sell any Cigar, sold individually or as a multi-unit package, and regardless of whether it is within its intended retail packaging, for a sales price, after any discounts are applied and before sales taxes are imposed, of less than \$3.00 per Cigar.
- (e) *Smoking Prohibited.* Smoking, including smoking for the purpose of sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.
- (f) *Samples Prohibited.* No person shall distribute samples of any licensed product free of charge or at a nominal cost.

#### Sec. 16-163. – Additional Requirements

- (a) *Storage.* All licensed products 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.

#### Sec. 16-164. - Responsibility.

All licensees are responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the licensee. Nothing in this section shall be construed as prohibiting the City from also subjecting the employee to any civil penalties that the City deems to be appropriate under this ordinance, state or federal law, or other applicable law or regulation.

#### Sec. 16-165. - 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 twice per year, the City shall conduct compliance checks. All premises licensed under this subdivision shall be open to inspection by the city

during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks. In accordance with state law, the City will conduct at least one compliance check that involves the participation of one person between the ages of 15 and 17 and may conduct an additional compliance check involving one person between the ages of 18 and 20.

No person used in compliance checks shall attempt to use a false identification misrepresenting their age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Minors used for compliance checks shall not be guilty of unlawful possession licensed products when those items are obtained as a part of the compliance check. Nothing in this article shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this ordinance.

#### Sec. 16-166. - Other Prohibited Acts.

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

- (a) *Illegal Procurement.* It shall be a violation of this article for any person 21 years of age or older to purchase, attempt to purchase, or otherwise obtain any licensed product on behalf of a person under the age of 21. It shall also be a violation for any person 21 years of age or older to coerce or attempt to coerce a person under the age of 21 to purchase or attempt to purchase any licensed product.
- (b) *Use of False Identification.* It shall be a violation of this article for any person to use any form of false identification, whether the identification is that of another person or one that has been modified or tampered with to represent an age older than the actual age of the person using that identification.

#### Sec. 16-167. - Exceptions and Defenses.

Nothing in this article shall prevent the providing of tobacco or tobacco-related devices to any person as part of an indigenous practice or lawfully recognized religious, spiritual, or cultural ceremony or practice. 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.

#### Sec. 16-168. - Violations and Penalty.

- (a) *Administrative Civil Penalties—Individuals.* If a person who is not a licensee is found to have violated this article, the person shall be charged an administrative penalty as follows:
  - (1) *First Violation.* The Council shall impose a civil fine not to exceed \$50.00.
  - (2) *Second Violation Within 12 months.* The Council shall impose a civil fine not to exceed \$100.00.
  - (3) *Third Violation Within 12 months.* The Council shall impose a civil fine not to exceed \$150.00.

- (b) *Same—Licensee.* If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be charged an administrative penalty as follows:
- (1) *First Violation.* The Council shall impose a civil fine of \$500.00 and suspend the license for not less than five consecutive days.
  - (2) *Second Violation Within 24 Months.* The Council shall impose a civil fine of \$750.00 and suspend the license for not less than 15 consecutive days.
  - (3) *Third Violation Within 24 Months.* The Council shall impose a civil fine of \$1,000.00 and suspend the license for not less than 30 consecutive days.
  - (4) *Fourth Violation Within 24 Months.* The Council shall revoke the license for at least one year.
- (c) *Administrative Penalty Procedures.* Notwithstanding anything to the contrary in this section:
- (1) Any of the administrative civil penalties set forth in this section that may be imposed by the Council, may in the alternative be imposed by an administrative citation under Section 1-9.
  - (2) If one of the foregoing penalties is imposed by an action of the Council, no penalty shall take effect until the licensee or person has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the Council, and such notice must be in writing and must provide that a right to a hearing before the Council must be requested within 10 business days of receipt of the notice or such right shall terminate.
- (d) *Misdemeanor Prosecution.* Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this article.

Sec. 16-169. - Severability.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Sec. 16-170 – Effective Date.

This ordinance becomes effective on January 1, 2020.

COMPARISON OF CURRENT  
TOBACCO LICENSING ORDINANCE  
AND  
PROPOSED TOBACCO LICENSING  
ORDINANCE

## ARTICLE VI. - TOBACCO

Sec. 16-157. - Purpose and Intent.

Because the City recognizes that ~~many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products~~the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine ~~or lobelia delivery devices, and the sales, possession, and use are violations of or lobelia delivery products to persons under the age of 18 violates~~ both ~~State~~state and ~~Federal~~federal laws; and because studies, which the City ~~hereby~~ accepts and adopts, have shown that ~~most~~youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because nearly 90% of smokers begin smoking before they have reached the age of 18 years, and that ~~these persons who reach~~almost no one starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used menthol, mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the age~~presence~~ of ~~18 years without having started smoking are significantly less likely to begin smoking~~such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because smoking commercial tobacco use has been shown to be the cause of ~~several~~many serious health problems which subsequently place a financial burden on all levels of government; ~~this article shall be~~ordinance is intended to regulate the sale, ~~possession and use of commercial tobacco, tobacco products~~, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery ~~devices~~products for the purpose of enforcing and furthering existing laws, to protect ~~minors~~youth and young adults against the serious health effects associated with ~~the illegal tobacco use of tobacco, tobacco products, tobacco-related devices, and nicotine or lobelia delivery devices and initiation~~, and to further the official public policy of the ~~State in regard~~state to ~~preventing~~prevent young people from starting to smoke, as stated in Minn. ~~Stats~~Stat. § 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 U.S. Surgeon General reports, E-cigarette Use Among Youth and Young Adults (2016), The Health Consequences of Smoking — 50 Years of Progress (2014) and Preventing Tobacco Use Among Youth and Young Adults (2012); the Centers for Disease Control and Prevention in their study "studies, Tobacco Use Among Middle and High School Students — United States, 2011–2015 (2016), and Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, United States, 1997," (1998); and of the following ~~medical professionals~~scholars in these ~~medical~~scientific journals: ~~Khuder SA, et al., " & Millar, W. J., Age at Smoking Onset and Its Effect on Smoking Cessation," Addictive Behavior 24(5):673-7, September-October 1999~~of smoking initiation: implications for quitting. HEALTH REPORTS, 9(4), 39–46 (1998); D'Avanzo, B., et al., "La Vecchia, C., & Negri, E., Age at Starting Smoking and Number of Cigarettes Smoked," ANNALS OF EPIDEMIOLOGY, 4(6):, 455-59, November 1994; Chen, J & Millar, WJ, "Age of Smoking Initiation: Implications for Quitting," Health Reports 9(4):39-46, Spring 1998–459 (1994); Everett SA, et al S. A., "Warren, C. W., Sharp, D., Kann, L., Husten, C. G., & Crossett, L. S. Initiation

of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students," PREVENTIVE MEDICINE, 29(5), 327-33, November 1999-333 (1999); Giovino, G. A., Epidemiology of Tobacco Use in the United States, ONCOGENE, 21(48), 7326-7340 (2002); Khuder, S. A., Dayal, H. H., & Mutgi, A. B., Age at Smoking Onset and its Effect on Smoking Cessation. ADDICTIVE BEHAVIORS, 24(5), 673-677 (1999); Luke, D. A., Hammond, R. A., Combs, T., Sorg, A., Kasman, M., Mack-Crane, A., Henriksen, L., Tobacco Town: Computational Modeling of Policy Options to Reduce Tobacco Retailer Density, AMERICAN JOURNAL OF PUBLIC HEALTH, 107(5), 740-746 (2017); MINNESOTA DEPARTMENT OF HEALTH, DATA HIGHLIGHTS FROM THE 2017 MINNESOTA YOUTH TOBACCO SURVEY, SAINT PAUL, MN (2018); Tobacco Control Legal Consortium, The Verdict Is In: Findings from United States v. Phillip Morris, The Hazards of Smoking, University of California — San Francisco (2006); Truth Tobacco Industry Documents, <https://www.industrydocumentslibrary.ucsf.edu/tobacco/>; Xu, X., Bishop, E. E., Kennedy, S. M., Simpson, S. A., & Pechacek, T. F., Annual Healthcare Spending Attributable to Cigarette Smoking: An Update, AMERICAN JOURNAL OF PREVENTIVE MEDICINE, 48(3), 326-333 (2015), copies of which are adopted by reference.

~~(Code 1988, § 6.34(1))~~

Sec. 16-158. - Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted 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:

Child-Resistant Packaging. Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015."

Cigar. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

Compliance Checks: The system the City uses to investigate and ensure that those authorized to sell ~~tobacco, tobacco~~licensed products, ~~tobacco-related devices, 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. The term "compliance checks" shall also mean~~persons under the usage of minors<sup>21</sup> who ~~purchase or~~ attempt to purchase ~~tobacco, tobacco~~licensed 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 the City or other units of government ~~for the purpose of~~ for educational, research, and training purposes, or for investigating or enforcing ~~appropriate~~ Federal, State or local laws and regulations relating to ~~tobacco, tobacco~~licensed products, ~~tobacco-related devices, and nicotine or lobelia delivery devices.~~

Electronic Delivery Device. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. 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 U.S. 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.

Flavored Product. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a licensed product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

*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. A standard window screen (0.011 gauge with an 18 by 16 inch mesh count) is not considered a wall.

Licensed Product: The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

*Loosies:* ~~The common term used to refer to a~~ Loosies means (1) single or individually packaged cigarette or cigars or cigarettes offered for sale, regardless of whether they have been removed from their original retail packaging, and (2) any other tobacco licensed product that has been removed from its original retail packaging and sold individually. The term "loosies" offered for sale. Loosies does not include individual cigars with a retail price, after any discounts are applied and before any sales taxes are imposed, of ~~more than~~ at least \$2.003.00 per cigar.

*Minor:* ~~Any natural person who has not yet reached the age of 18 years.~~

*Moveable Place of Business:* Any form of business operated out of a kiosk, 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 ~~Devices~~Product*: Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not includinginclude any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration ~~for as a tobacco-use cessation product, harm-reductiona tobacco dependence product,~~ or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Pharmacy. A place of business at which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.

*Retail Establishment*: Any place of business where ~~tobacco, tobacco licensed~~ products, ~~tobacco-related devices, or nicotine or lobelia delivery devices~~ are available for sale to the general public. ~~The term "retail establishment" shall include, including,~~ but not be limited to, grocery stores, tobacco products shops, convenience stores, gasoline service stations, bars, and restaurants, ~~and drug stores.~~

*Sale*: Any transfer of goods for money, trade, barter or other consideration.

*Self-Service Merchandising*: Open displays of ~~tobacco, tobacco licensed~~ products, ~~tobacco-related devices, or nicotine or lobelia delivery devices~~ in any manner where any person ~~shall have~~ has access to the ~~tobacco, tobacco licensed~~ 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~~ Assistance or intervention ~~shall entail~~ means the actual physical exchange of the ~~tobacco, tobacco licensed~~ 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*: Inhaling ~~or,~~ exhaling ~~smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product.~~ The term "smoking" also includes burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant-product, whether natural or synthetic, that is intended for inhalation. ~~For the purpose of this article, the definition of smoking includes the use of electronic cigarettes, including the inhaling and exhaling of vapor from any~~ Smoking also includes carrying or using an activated electronic delivery device ~~as defined in Minn. Stats. § 609.685, subd. 1.~~

*Tobacco-or Tobacco Products*: ~~Tobacco and tobacco products includes cigarettes, e-cigarettes and any.~~ 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 cigarettes; 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. ~~The term "tobacco" excludes~~ Tobacco does not include any ~~tobacco~~ product that has been approved by the United States U.S. 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: Includes any tobacco product as well as a pipe, e-cigarette, Device. Any rolling papers, ashtraywraps, pipes, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking with tobacco products. Tobacco related device includes components of tobacco-related devices or tobacco products-, which may be marketed or sold separately. Tobacco related devices may or may not contain tobacco.~~

~~Vending Machine: Any mechanical, electric or electronic, or other type of device which that dispenses tobacco, tobacco licensed 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 licensed product or tobacco-related device.~~

~~(Code 1988, § 6.34(2); Ord. No. 462, 2nd Series, 7-30-2011; Ord. No. 554, 2nd Series, 5-14-2015)~~

Sec. 16-159. - License.

~~(a) (a) License Required. No person shall sell or offer to sell any tobacco, tobacco products, tobacco-related device, or nicotine or lobelia delivery device licensed product without first having obtained a license to do so from the City.~~

~~(b) (b) Application. An application for a license to sell tobacco, tobacco licensed 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 Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine determines that an application is incomplete, he/she they shall return the application to the applicant with notice of the information necessary to make the application complete.~~

A business applicant, at the time of application, shall furnish the City with a list of all persons that have an interest of five percent or more in the business. The list shall name all owners and show the interest held by each, either individually or beneficially for others. It is the duty of each business licensee to notify the City Clerk in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the City. The City may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the City may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action

shall be taken until after a hearing by the Council on notice to the licensee.

- (c) ~~(e)~~ *Action*. The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council ~~shall approve~~approves the license, the City Clerk shall issue the license to the applicant. 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. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.
- (d) ~~(e)~~ *Term*. All licenses issued under this article shall be valid for one calendar year from the date of issue.
- (e) ~~(e)~~ *Revocation or Suspension*. Any license issued under this article may be revoked or suspended as provided in Section 16-168.
- (f) ~~(f)~~ *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~~The transfer of any license to another location or person ~~shall be valid without the prior approval of the City Council~~is prohibited.
- ~~(g) *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.~~
- ~~(h)~~
- (g) *Display*. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- (h) ~~(i)~~ *Renewals*. The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- (i) ~~(j)~~ *Issuance As a Privilege and Not a Right*. The issuance of a license issued under this article ~~shall be considered~~is a privilege and ~~not an absolute right of the applicant and shall~~does not entitle the license holder to ~~an~~ automatic renewal of the license.
- ~~(k) *Smoking*. Smoking shall not be permitted and no person shall 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 prohibited.~~

~~(Code 1988, § 6.34(3))~~

~~State Law reference—Municipal licensing of tobacco generally, Minn. Stats. § 461.12.~~

- (j) *Maximum Number of Licenses*. The number of licenses issued under this section shall be capped at the number of licenses in place on January 1, 2020. Any decrease in the number of licenses that occurs after January 1, 2020 due to attrition will decrease the number of available licenses to that extent until the number of available licenses reaches 8. When the maximum number of licenses has been issued, the City may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as existing licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid license will be entitled to first

priority, provided the new applicant meets all other application requirements in accordance with this ordinance.

Sec. 16-160. - Fees.

No license shall be issued under this article until the appropriate license fee shall be paid in full. The fee for a license under this article shall be established by the City Council and adopted ~~by ordinance~~ in the City fee schedule, and may be amended from time to time.

~~(Code 1988, § 6.34(4))~~

Sec. 16-161. ~~— Ineligibility and~~ Basis for Denial of License.

~~(a)~~

(a) Ineligibility.

(1) Pharmacies. No existing license will be eligible for renewal to any pharmacy, including any retail establishment that operates or contains an on-site pharmacy, and no pharmacy or any retail establishment that operates an on-site pharmacy will be granted a new license.

(2) 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.

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

(1) ~~(1)~~—The applicant is under the age of ~~18~~21 years.

(2) ~~The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.~~

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

(4) ~~(3)~~—The applicant has had a license to sell ~~tobacco, tobacco~~ licensed products, ~~tobacco-related devices, or nicotine or lobelia delivery devices~~ suspended or revoked ~~within~~ during the 12 months preceding ~~12 months of~~ the date of application, or the applicant has or had an interest in another premises authorized to sell licensed products, whether in the City or in another jurisdiction, that has had a license to sell licensed products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the violation that led to the revocation or suspension.

(5) ~~The applicant is a business that does not have an operating officer or manager who is eligible pursuant to the provisions of this chapter.~~

(6) The applicant is the spouse of a person ineligible for a license pursuant to the provision of Subsections (b)(2) and (3) of this section or who, in the judgement of the Council, is not the real party in interest or beneficial owner of the business to be operated, under the license.

(7) (4)–The applicant fails to provide any information required on the application, or provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this chapter, or any part thereof.

~~(5)–The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation from holding a license.–~~

~~(b)– 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.–~~

~~(c)–~~

(c) The City shall conduct a background investigation on all new applications and applications to transfer a license. The City may conduct a background and financial check on an application for a renewal of a license if it is in the public interest to do so. 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 article and the City shall provide the person with a notice of revocation, along with information on the right to appeal.

(d) No license shall be granted or renewed for operation on any premises on which real estate taxes, assessments, or other financial claims of the City or of the State are due, delinquent, or unpaid. If an action has been commenced pursuant to the provisions of Minn. Stats. ch. 278, questioning the amount or validity of taxes, the Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee.

~~(Code 1988, § 6.34(5))~~

Sec. 16-162. - Prohibited ~~Sales~~Acts.

(a) In general. No person shall be a violation of this article for any person to sell or offer to sell any tobacco, tobacco licensed product, tobacco-related device, or nicotine or lobelia delivery device:

~~(1) To any person under the age of 18 years.–~~

~~(2)–~~

(1) 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 premises 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.–~~

~~(4)~~

(2) By means of self-service merchandising.

(3) By means of loosies as defined in Section 16-158.

(4) ~~(5)~~ Containing opium, morphine, jimson weed, ~~bella donna~~ belladonna, 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.

(5) That is liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used

(6) ~~(6)~~ By any other means, to any other person, on in any other manner or form prohibited by ~~Federal, State~~ federal, state or other local law, ordinance provision, or other regulation.

(b) Legal Age. No person shall sell any licensed product to any person under the age of 21.

(1) Age verification. Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

(2) Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the City, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

(c) Flavored Products. No person shall sell or offer for sale any flavored products. This prohibition does not apply to retail establishments that:

(1) Prohibit persons under 21 from entering at all times;

(2) Derive at least 90 percent of their gross revenues from the sale of licensed products; and

(3) Meet all of the following building or structural criteria:

a. Shares no wall with, and has no part of their structure adjoined to any other business or retailer, unless the wall is permanent, completely opaque, and without doors, windows, and pass throughs to the adjacent retailer;

b. Shares no walls with, and has no part of their structure directly adjoined to, another

licensed tobacco retailer; and

c. Is accessible by the public only by an exterior door.

Any retail establishment that sells flavored products must, upon request, provide financial records documenting its annual sales to the City.

(d) Minimum Cigar Price. No person shall sell or offer to sell any Cigar, sold individually or as a multi-unit package, and regardless of whether it is within its intended retail packaging, for a sales price, after any discounts are applied and before sales taxes are imposed, of less than \$3.00 per Cigar.

(e) Smoking Prohibited. Smoking, including smoking for the purpose of sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.

(f) Samples Prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost.

~~(Code 1988, § 6.34(6))~~

Sec. 16-163. ~~--~~ Additional Requirements

(a) Storage. All ~~tobacco, tobacco~~ licensed products, ~~tobacco-related devices, and nicotine or lobelia 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.

~~(Code 1988, § 6.34(7))~~

Sec. 16-164. - Responsibility.

All licensees ~~under this article shall be~~ responsible for the actions of their employees in regard to the sale ~~of tobacco, tobacco products, tobacco-related devices, or nicotine or lobelia delivery devices, offer to sell, and furnishing of licensed products~~ on the licensed premises, ~~and the.~~ The sale ~~of an item, offer to sell, or furnishing of any licensed product~~ by an employee shall be considered ~~a sale by an act of the license holder~~ licensee. Nothing in this ~~article~~ section shall be construed as prohibiting the City from also subjecting the ~~clerk~~ employee to ~~whatever any civil~~ penalties ~~are~~ that the City deems to be appropriate under this ~~article, State ordinance, state~~ or ~~Federal~~ federal law, or other applicable law or regulation.

~~(Code 1988, § 6.34(8))~~

Sec. 16-165. - 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 twice per year, the City shall conduct compliance checks. All premises licensed under this subdivision shall be open to inspection by the city during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks ~~by engaging,~~ In accordance with state law, the ~~written consent of their parents or guardians, minors over~~ City will conduct at least one compliance check that involves the participation of

one person between the ages of 15 years but less than 18 years to enter the licensed premises 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 those items are obtained as a part of the compliance check. and 17 and may conduct an additional compliance check involving one person between the ages of 18 and 20.

No ~~minor~~person used in compliance checks shall attempt to use a false identification misrepresenting ~~the minor's~~their age, ~~and all minors. All persons~~ lawfully engaged in a compliance check shall answer all questions about ~~the minor's~~their age asked by the licensee or ~~his/her~~their employee, and ~~shall~~ produce any identification, if any exists, for which ~~he/she is~~they are asked. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Minors used for compliance checks shall not be guilty of unlawful possession licensed products when those items are obtained as a part of the compliance check. Nothing in this article shall prohibit compliance checks authorized by ~~State~~state or ~~Federal~~federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

~~(Code 1988, § 6.34(9))~~

~~State Law reference—Compliance checks, Minn. Stats. § 461.12, subd. 5.~~

Additionally, from time to time, the City will conduct inspections to determine compliance with any or all other aspects of this ordinance.

Sec. 16-166. - Other ~~Illegal~~Prohibited 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/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)~~

(a) *Illegal Procurement.* It shall be a violation of this article for any minor person 21 years of age or older to purchase ~~or~~, attempt to purchase, or otherwise obtain any tobacco, tobacco licensed 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 these items on behalf of a minor person under the age of 21. It shall ~~further~~also be a violation for any person 21 years of age or older to coerce or attempt to coerce a minor person under the age of 21 to ~~illegally~~ purchase or ~~otherwise obtain or use~~attempt to purchase any tobacco, tobacco licensed product, ~~tobacco-related device, or nicotine or lobelia delivery device.~~ This subsection shall not apply to minors lawfully involved in a compliance check.

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

~~(Code 1988, § 6.34(10))~~

Sec. 16-167. - Exceptions and Defenses.

Nothing in this article shall prevent the providing of tobacco, ~~tobacco products, or~~ tobacco-related devices, ~~or nicotine or lobelia delivery devices~~ to a ~~minor~~any person as part of ~~an indigenous practice or~~ lawfully recognized religious, spiritual, or cultural ceremony or practice. 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~~state law.

~~(Code 1988, § 6.34(11))~~

~~State Law reference—Defenses, Minn. Stats. § 461.12, subd. 6.~~

Sec. 16-168. - Violations and Penalty.

~~(a) (a) Administrative Civil Penalties—Individuals.~~ If a person who is not a licensee is found to have violated this article, the person shall be charged an administrative penalty as follows:

~~(1) (1) First Violation.~~ The Council shall impose a civil fine not to exceed \$50.00.

~~(2) (2) Second Violation Within 12 months.~~ The Council shall impose a civil fine not to exceed \$100.00.

~~(3) (3) Third Violation Within 12 months.~~ The Council shall impose a civil fine not to exceed \$150.00.

~~(b) (b) Same—Licensee.~~ If a licensee or an employee of a licensee is found to have violated this article, the licensee shall be charged an administrative penalty as follows:

~~(1) (1) First Violation.~~ The Council shall impose a civil fine of \$500.00 and suspend the license for not less than five consecutive days.

~~(2) (2) Second Violation Within 24 Months.~~ The Council shall impose a civil fine of \$750.00 and suspend the license for not less than 15 consecutive days.

~~(3) (3) Third Violation Within 24 Months.~~ The Council shall impose a civil fine of \$1,000.00 and suspend the license for not less than 30 consecutive days.

~~(4) (4) Fourth Violation Within 24 Months.~~ The Council shall revoke the license for at least one year.

~~(c) (e) Administrative Penalty Procedures.~~ Notwithstanding anything to the contrary in this section:

~~(1) (1) Any of the administrative civil penalties set forth in this section that may be imposed by~~

the Council, may in the alternative be imposed by an administrative citation under Section 1-9.

~~(2)~~ ~~(2)~~—If one of the foregoing penalties is imposed by an action of the Council, no penalty shall take effect until the licensee or person has received notice (served personally or by mail) of the alleged violation and of the opportunity for a hearing before the Council, and such notice must be in writing and must provide that a right to a hearing before the Council must be requested within 10 business days of receipt of the notice or such right shall terminate.

~~(d)~~ ~~(d)~~—*Misdemeanor Prosecution*. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this article.

~~(e)~~ ~~Defense~~. It is a defense to the charge of selling tobacco or tobacco-related devices to a person under the age of 18 years, that the licensee or individual, in making the sale, reasonably and in good faith relied upon representation of proof of age described in Minn. Stats. § 340A.503.

~~(f)~~ ~~Exceptions~~. 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 subsection, the term "Indian" means a person who is a member of an Indian tribe as defined in Minn. Stats. § 260.755, subd. 12.

~~(Code 1988, § 6.34(13); Ord. No. 462, 2nd Series, 7-30-2011; Ord. No. 462, 2nd Series, 7-30-2011; Ord. No. 474, 2nd Series, 12-16-2011; Ord. No. 565, 2nd Series, 7-31-2015)~~

~~State Law reference—Administrative penalties, Minn. Stats. § 461.12, subd. 3; defenses, Minn. Stats. § 461.12, subd. 6.~~

~~Sec. 16-169.—Violation a Misdemeanor.~~

~~Every person who violates a section, subsection, paragraph or provision of this article, when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor or gross misdemeanor and may also be subject to administrative penalties as otherwise stated in specific provisions.~~

~~(Code 1988, § 6.34(14); Ord. No. 462, 2nd Series, 7-30-2011)~~

~~Secs. 16-170—16-191.—Reserved.~~

Sec. 16-169. - Severability.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Sec. 16-170 – Effective Date.

This ordinance becomes effective on January 1, 2020.

Document comparison by Workshare 10.0 on Friday, September 6, 2019  
10:42:27 AM

Input:	
Document 1 ID	file:///L:\City Open Matters\Ordinances\Tobacco\ARTICLE VI. TOBACCO (Original).doc
Description	ARTICLE VI. TOBACCO (Original)
Document 2 ID	L:\City Open Matters\Ordinances\Tobacco\Drafting Resources\ARTICLE VI. TOBACCO (Rev. 9.5.19).doc
Description	L:\City Open Matters\Ordinances\Tobacco\Drafting Resources\ARTICLE VI. TOBACCO (Rev. 9.5.19).doc
Rendering set	Standard

Legend:	
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	Count
Insertions	296
Deletions	250
Moved from	10
Moved to	10
Style change	0
Format changed	0
Total changes	566



**MEMORANDUM**  
**Physical Development Department**  
763-593-8030 / 763-593-3988 (fax)

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**Executive Summary**  
**Golden Valley Council/Manager Meeting**  
**September 10, 2019**

**Agenda Item**

2. Glenwood Ave Bike Lane Plan and Parking Restrictions

**Prepared By**

Marc Nevinski, Physical Development Director

**Summary**

Hennepin County is scheduled to overlay Glenwood Avenue between Highway 100 and Thomas Avenue in Minneapolis in the summer of 2020. The County resurfaced Glenwood Avenue from Highway 55 to Highway 100 in 2017, which included the addition of buffered bike lanes after receiving comments and feedback at an open house. In preparation for the 2020 overlay, County and City staff held an open house in December of 2018 and over the first half of 2019 met periodically with a study group comprised of residents interested in discussing further improvements to Glenwood Avenue. A second open house was also held in August at Brookview. County staff has prepared the attached memorandum summarizing the outcomes from the study group meetings, which also included input from Breck School. Meetings were also held by County staff with Metro Transit and the Minneapolis Park and Recreation Board.

Because the 2020 project is an overlay and not a reconstruction project, many of the improvements discussed by the study group will need to be made in the near to long term future. The memorandum summarizes the goals identified for Glenwood Avenue and suggests when they might be completed. A number of the improvements will likely require City participation and will need to be budgeted for as part of the CIP.

County staff will discuss the memorandum at the Council-Manager meeting and present the proposed layout for Glenwood Avenue, which includes narrowing traffic lanes, adding buffered bike lanes, and restricting parking. They will also discuss some concept plans for other improvements. It is anticipated Council will consider parking restrictions on Glenwood Avenue at its September 17<sup>th</sup> regular meeting.

**Attachments**

- Glenwood Avenue 2020 Resurfacing and Restriping Memorandum (4 pages)

**Recommendation**

Review and discuss the attached memorandum and proposed layout for Glenwood Avenue.

## Memo

**To:** Marc Nevinski, City of Golden Valley

**From:** Robert Byers & Emily Kettell, Hennepin County Public Works – Transportation Planning

**Date:** September 5, 2019

**Re:** Glenwood Avenue 2020 Resurfacing and Restriping

## Purpose

The purpose of this memorandum is to provide an update to the Golden Valley City Council in regards to an upcoming county 2020 mill and overlay project along Glenwood Avenue (County Road 40) from Highway 100 in Golden Valley to Thomas Avenue in Minneapolis.

As part of the preparation for the 2020 mill and overlay project, city and county staff have conducted extensive outreach, including the formation of a study group to review options for the future of the entire Glenwood Avenue corridor.

This memorandum details the proposed changes to occur in conjunction with the 2020 mill and overlay as well as a timeline for recommended future improvements.

## Outreach and communications

County and city staff have made it a priority to understand residents' and other stakeholders' needs and concerns for the Glenwood Avenue corridor. Between November 2018 and August 2019, the project team has completed the following:

- Announcing the project in a mailing to more than 800 residents that included a project information sheet, open house invitation, and comment form
- Providing project updates and promoting a community-wide open house, through the Golden Valley newsletter and on a project-specific webpage: [www.hennepin.us/glenwoodgoldenvalley](http://www.hennepin.us/glenwoodgoldenvalley)

- Hosting an open house at Golden Valley City Hall to provide an overview of the project and gather initial input
- Meeting with key stakeholders, including:
  - Breck School to discuss general parking and traffic control at Ottawa and Glenwood avenues
  - Minneapolis Parks & Recreation Board staff to discuss the Theodore Wirth intersection, trail alignments and parking along Glenwood Avenue
  - Metro Transit staff to discuss bus stop locations and pedestrian connections
- Coordinating a study group comprised of city and county staff, Breck School staff and interested residents
- Hosting a second open house at Brookview to share community feedback and proposed recommendations

## Proposed recommendations

The attached community feedback document summarizes the key concerns that county staff have heard at various outreach events over the past year. After completing studies (e.g. parking studies and pedestrian crossing counts) and considering these concerns, Hennepin County recommends the following actions:

### Immediate

In coordination with the 2020 mill and overlay:

- Promote traffic calming by reducing lane widths from 13 feet to 11 feet.
- Convert existing shoulder space to dedicated buffered bike lanes to provide a consistent connection along the entire Glenwood corridor and provide a buffer between people walking on the sidewalk and people driving.
- Remove parking along the corridor due to low use.
- Re-establish landscaping (boulevard space) to improve the pedestrian environment by providing a buffer between the sidewalk and roadway between Ottawa and Natchez avenues and re-establish landscaping near Theodore Wirth Park.
- Design and implement painted median to facilitate a crossing of Glenwood at Ottawa Avenue North.
  - Additionally, evaluate the feasibility for a multi-use trail along the south side of Glenwood Avenue between Ottawa and Natchez avenues to provide a connection for people crossing north/south. Design details will need to be evaluated and neighborhood engagement will need to take place before moving forward.

### Near future

Over the course of the next few years:

- Construct refuge median in place of a painted median at Ottawa Avenue N, stripe crosswalk, add ADA-compliant pedestrian ramps, and construct multi-use trail to address crossing concerns.
- Evaluate sidewalk improvements, particularly between Westwood Drive and Ardmore Drive.
  - The City and County will need to coordinate on this section of sidewalk to determine the feasibility of improving the sidewalk in the near or mid-term. Improvements are likely to include the construction of a large retaining wall on pilings to support a wider sidewalk.
- Conduct pedestrian crossing analyses at additional locations across Glenwood Avenue.

- Evaluate feasibility of a planted median at Highway 100 in place of existing painted median.
  - The median would need to be compliant with Hennepin County’s landscaping guidelines, which will be finalized later this year.
- Pilot temporary bike lane improvements along curves.
  - Pending further discussion, county staff are interested in testing “mumble strips,” which help notify drivers they are veering off into the bike lane, along curved portions of the roadway, particularly near Theodore Wirth Park.
- Evaluate safety improvements to the intersection of Glenwood Avenue and Theodore Wirth Parkway.
  - County staff have begun discussions with Minneapolis Park and Recreation Board in regards to this intersection.
  - Key areas of improvement may include crossings, trail locations, and overall intersection geometry.

## Long term

Additional ideas require more time for study, discussion, coordination, design and construction, and would have to be considered as part of a more extensive reconstruction, including:

- Make improvements to the Highway 100 bridge in coordination with MnDOT.
  - Improvements may include improved ADA accessibility, sidewalks and dedicated bike space.
- Add consistent sidewalk, boulevard space and other landscaping elements throughout the corridor.
- Evaluate improvements to better align Ottawa Avenue.
- Add pedestrian scale lighting.
- Enhance bike lanes.

## Next steps

Hennepin County staff are recommending to move forward with the proposed immediate improvements in 2020 as detailed in this memo.

- County staff will seek support for the recommendations outlined in this memo, which will also include a resolution for no parking.
- The memo will be presented to a Golden Valley council-manager meeting on September 10th and a full city council meeting on September 17th.
- If approved, Hennepin County will take the next steps to communicate with stakeholders and finalize designs.
- Timing of implementation will be coordinated with county and city staff as part of the county’s 2020 mill and overlay program.

## Attachments

Attachment 1 – Community feedback board

# Community feedback

## Walking and rolling



- Repair sidewalks and add boulevard space between the sidewalk and roadway
- Ensure that sidewalks are comfortable for people of all ages and abilities.
- Provide marked crosswalks at designated locations across Glenwood Avenue.
- Improve drainage and clear sidewalks better in the winter.
- Redesign the Glenwood and Theodore Wirth Parkway intersection to improve visibility for people walking and biking.

## Biking



- Provide a dedicated space for people biking that is consistent with the segments on either end of this project corridor.
- Create a connection to Theodore Wirth Park that is comfortable for a variety of users (families, routine users, etc).
- Address the bike gap on Highway 100 and improve sidewalk access due to curb issues and pole/signage obstructions.

## Driving



- Implement traffic calming - people speed through the corridor, especially when exiting Highway 100.
- Improve issues with truck traffic traveling through the corridor.
- Remove parking to create a more multi-modal and accessible street.

Also noted:

- Parking (where allowed) should be better signed.
- Some concern about the loss of parking, particularly around Ottawa.

## Miscellaneous



- Add lighting along Glenwood Avenue.
- Preserve neighborhood feel through signage and landscaping.
- Provide more landscaping to the corridor; in particular, consider using the median at Highway 100 for landscaping.
- Improve bus stop facilities.



# MEMORANDUM

## Administrative Services Department

763-593-8013 / 763-593-3969 (fax)

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### Executive Summary

Golden Valley Council/Manager Meeting  
September 10, 2019

#### Agenda Item

3. Proposed Budgets and Capital Improvement Program
  - a. 2020-2021 Proposed Other Funds Budget
  - b. 2020-2029 Proposed Capital Improvement Program
  - c. 2020-2021 Proposed General Fund Budget & Levy

#### Prepared By

Sue Virnig, Finance Director

#### Summary

Staff will give a presentation on the 2020-2021 Proposed Other Funds Budget, 2020-2029 Proposed Capital Improvement Program and 2020-2021 Proposed General Fund Budget/Preliminary Levy Wrap Up.

Documents have been sent electronically to council along with access from the city website.

#### Attachment

- 2020-2021 Proposed Other Funds Budget Powerpoint (9 pages)
- 2020-2029 Proposed Capital Improvement Program Powerpoint (6 pages)
- 2020-2021 Proposed General Fund Budget/Preliminary Levy Wrap Up Powerpoint (4 pages)

# 2020-2021 Other Funds Proposed Budget

Council Manager Meeting  
September 10, 2019

## Other Funds

- ▶ Enterprise Funds (User Fees)
  - ▶ Water & Sewer Utility
  - ▶ Brookview Golf Course
  - ▶ Motor Vehicle Licensing (DMV)
  - ▶ Conservation/Recycling
  - ▶ Storm Water Utility (Enterprise Fund)
- ▶ Special Revenue (Designated Revenue Source)
  - ▶ Human Services
  - ▶ Brookview-Facility
  - ▶ DWI Enforcement
  - ▶ Violent Offenders Task Force
  - ▶ Lodging Tax Revenue
- ▶ Internal Service (Service Fees charged)
  - ▶ Vehicle Maintenance

## 2019 Schedule

- ▶ August 13
  - ▶ Reviewed General Fund Budget and Tax Levy
- ▶ **September 10**
  - ▶ Review all other funds budgets (Enterprise, Special Revenue, Internal Service Funds)
  - ▶ Review 2020-2029 Capital Improvement Program
  - ▶ Review Proposed 2020 Wrap Up and Levy
- ▶ December 3
  - ▶ Approve Proposed Budgets

## Water and Sewer Utility Fund

- ▶ Revenues
  - ▶ Proposed Rate Increase
    - ▶ Operations
    - ▶ Infrastructure Renewal Program
    - ▶ Increase Flat Rate per quarter for first 1000 gallons \$4.50
    - ▶ City Sewer Rates will increase 3%

## Water and Sewer Utility Fund

### ► Expenditures

- 2020 PMP - 1.27 miles -feasibility study includes portions of water main replacement along with replacement of valves, and hydrants as needed and sandblasting and painting of all existing hydrants in the project area \$
- 2021 PMP - 1.33 miles
- Mill and Overlay -\$150,000 - coincide with overall overlay program in 2020-21
- Upgrade Software Reading System - \$25,000
- I394 Inflow/Infiltration Project - 2021 -\$250,000
- Minneapolis water increases (updated cost of service model for 2020, 2021, 2022)
  - est. 3.0% increase
- MCES rates will be increased 4.38%
  - Was 11.5% in 2019

## Storm Water Utility

### ► Revenues

- Increase in rates in 2020 by \$1 per quarter
- IRP still needs future financing

### ► Expenditures

- Storm Water Improvements coincide with PMP \$750,000
- Decola Ponds B & C Improvements-finishing project in 2020
- Inspect and Maintain Large Diameter Storm Sewers - \$300,000
- Flood Mitigation Program-Homeowners Incentive Program -\$250,000
- Study SEA school flood reduction project (BCWMO)

## Conservation/Recycling

- ▶ Revenues
  - ▶ Hennepin County Grant decrease
  - ▶ Recycling fees will increase by \$1 per quarter to cover future contract services.
  
- ▶ Expenditures
  - ▶ Contractual Service with Republic was extended in 2018 until 2021
  
- ▶ 2020 Net Assets    \$1,166,856
- ▶ 2021 Net Assets    \$1,119,021

## Proposed Quarterly Residential Utility Account

Starts April 1	2019	2020
Water (8,000)	60.15	65.70
Emer Water Supply	2.40	2.40
Sewer	76.81	79.11
ST OF MN	1.59	<b>2.43</b>
Recycling	15.00	16.00
Street Light	8.31	8.56
Storm Utility	24.00	25.00
<b>TOTAL</b>	<b>181.05</b>	<b>199.20</b>

## Brookview Golf Course

- ▶ Revenues
- ▶ Green Fees will not be increased in 2020
  - ▶ All revenues come from the activities held on course
    - ▶ Golfing
    - ▶ Three-One-Six
    - ▶ Cart Rental
    - ▶ Par 3
    - ▶ Driving Range
    - ▶ Lawn Bowling
    - ▶ Pro Shop Sales
    - ▶ Curling

## Brookview Golf Course

- ▶ Expenditures
  - ▶ Artificial Turf \$130,000
  - ▶ Range Netting \$110,000
  - ▶ Aerator \$25,000
  - ▶ Course Equipment \$100,000 (starting in 2021)
  - ▶ Kitchen Replacements \$10,000-2020 \$15,000-2021
  - ▶ Golf Course Infrastructure \$50,000 (starting in 2022)
- ▶ Transfers
  - ▶ Overhead \$85,000
  - ▶ Rent \$127,200
- ▶ 2020 Net Assets \$708,153
- ▶ 2021 Net Assets \$736,058

## Motor Vehicle Licensing

- ▶ Revenues
  - ▶ Registration Fees /Title Transfers (6,869 more transactions -total 55,397)
  - ▶ Limited Licenses
  
- ▶ Expenditures
  - ▶ No new items
  
- ▶ Transfers
  - ▶ Overhead \$30,000
  - ▶ Permanent \$30,000
  - ▶ Rent \$22,000
  
- ▶ MNLARs - Spring 2020 conversion

## Human Services Commission

- ▶ Revenues
  - ▶ Lawful Gambling Proceeds
  - ▶ Fund Raising Events
  
- ▶ Expenditures
  - ▶ 2020 \$77,100 (\$60,000 allocations)
  - ▶ 2021 \$77,100
  
- ▶ Net Assets - 2020 \$167,724
- ▶ Net Assets - 2021 \$151,324

## Brookview (Facility)

- ▶ Operations of the New Center to account for the indoor playground with party rooms, a banquet facility and other meeting rooms for rent
- ▶ Transfers - \$50,000 for future furniture, carpet, etc. starting in 2021
- ▶ No overhead transferred to the General Fund
- ▶ Net Assets      2020      \$342,456
- ▶ Net Assets      2021      \$298,071

## DWI Enforcement

- ▶ Revenues
  - ▶ MS 169A.63 Subd.10- Allows for collection of revenues from DWI forfeitures
- ▶ Expenditures
  - ▶ Allows for DWI expenses such as DWI classes, supplies, etc.
- ▶ Net Assets -\$14,202
- ▶ Overtime Shifts -DWI Enforcement      \$15,000
- ▶ License Plate Readers & Installation      \$30,000
- ▶ Squad builds - radars, lights, GPS \$45,000
- ▶ Counter Act - supplies and training \$23,000
- ▶ Payouts to County/State (30% of forfeitures) \$119,000
- ▶ Squad Car \$40,000

## Violent Offenders Task Force

- ▶ Revenues
  - ▶ Hennepin County remits monies to the cities that assign officers to the task force
- ▶ Expenditures
  - ▶ 2020-Drone/Camera \$15,000
- ▶ Net Assets-\$99,635
- ▶ Drone \$12,000
- ▶ Training Equipment-rentals, training guns, gun parts, mats \$19,000
- ▶ Training \$13,000
- ▶ Squad Cars \$80,000

## Lodging Tax

- ▶ Revenues
  - ▶ Lodging Tax -Of the money collected, 95% is allocated to CVB for tourism to Golden Valley and 5% is allocated to the City of Golden Valley
- ▶ Expenditures
  - ▶ In 2021, \$50,000 can be dedicated to Branding Program
- ▶ \$10,000 collected each year
- ▶ Future Council/Manager Meeting Topic

## Vehicle Maintenance Fund

- ▶ Revenues

- ▶ All revenues come from hourly rates, parts and fuel charged to departments based on usage

- ▶ Expenditures

- ▶ Labor, contractual maintenance and rent for the building

- ▶ Transfers

- ▶ Rent \$24,000

# 2020-2029 Proposed Capital Improvement Plan

Council Manager Meeting  
September 10, 2019

## Capital Improvement Plan Sections

- ▶ Vehicles and Equipment
- ▶ Parks
- ▶ Brookview Golf Course
- ▶ Buildings
  - ▶ General Buildings
  - ▶ Cablecasting
- ▶ Storm Water Utility
- ▶ Water and Sanitary Sewer
- ▶ Streets
- ▶ Appendix

## General Fund Transfers

	<u>Current</u>	<u>Goal</u>
▶ Buildings	\$535,000*	\$ 500,000
▶ Parks	\$350,000	\$ 400,000
▶ Street Overlays	\$600,000	\$1,000,000
▶ Equipment	\$1,032,580	\$1,100,000
▶ Storm Water	\$50,000	\$ 50,000 ends 2021

- ▶ \$35,000 is for the comprehensive building study. \$35,000 was included in 2019 and will be combined for a total of \$70,000.

## Vehicles and Equipment

- ▶ Vehicles and Equipment are funded by General Fund Transfers since 2018. All previous certificates of indebtedness that funded equipment before 2018 will be paid off by 2021.
- ▶ Financing -Goal would be not to issue future certificates for financing. In 2025, transfers will need to be increased by \$50,000 each year for the purchase of fire truck in 2030.

## Park Improvement Program

- ▶ Park Improvements -Plan is to get to \$400,000 as an annual transfer from the General Fund by 2021. Park dedication fees are charged but not added as a revenue source due to uncertainty of collection.
- ▶ Lighting (LED) - Wesley Park
- ▶ In 2020, Community Gardens & Off-Leash Dog Park
- ▶ In 2023, Tennis courts in Scheid \$390,000 & Pickleball Courts (east of 100) \$195,000
- ▶ Financing
- ▶ Park Improvement Section-Projects

## Buildings/Cablecasting

- ▶ Buildings- General Buildings
  - ▶ City Hall Boiler replacement -2022
  - ▶ Council Chambers remodel (Dias and Equipment)-2020
  - ▶ Cable Equipment funded with designated franchise fees
  - ▶ Storage Yard Improvements
  - ▶ Comprehensive Building Study -2020
    - ▶ 2026-Public Safety Building (Input, Plans, Specs) \$1,500,000
  - ▶ General Fund transfers in 2020 is \$500,000.
- ▶ Financing
- ▶ Building Improvement Projects

## Brookview Golf Course

- ▶ Course opened April 4, 2019
- ▶ Snow fall in late April
  
- ▶ Future Improvements not scheduled
  - ▶ Irrigation system
  - ▶ Bridge Improvements
  - ▶ Storm Water Ponds
  
- ▶ Net Assets - Six Months of Expenditures \$1,693,550 -Recommended Level
- ▶ 2020 Net Assets - \$708,153
- ▶ 2021 Net Assets - \$736,058
  
- ▶ Financing
- ▶ Brookview Golf Section-Projects

## Storm Water

- ▶ This fund accounts for storm water infrastructure improvements and the flood damage reduction program. Improvements are funded by a fee charged on the utility bill along payments for construction from Bassett Creek Water Management Commission or grants received. Monies from the State, Hennepin County, and Bassett Creek allowed us to improve Decola Ponds B & C.
  
- ▶ 2020 -2029
  - ▶ Decola Ponds (B & C) Cooperative Efforts-Bassett Creek, DNR, Hennepin County
  - ▶ Ongoing Storm Water repairs with overlay program-\$150,000/year
  - ▶ Flood Mitigation -\$250,000 - Incentive Program - future Council Manager meeting
  - ▶ Every other year - Storm Dredging -\$300,000
  
- ▶ Financing
- ▶ Projects



## 2020-2029 Capital Improvement Program

- ▶ The plan will be reviewed by the Planning Commission on November 12
- ▶ On December 3, the plan will be adopted by Council.

# 2020-2021 General Fund Proposed Budget & Levy

Council Manager Meeting  
September 10, 2019

## 2019 Schedule

- ▶ May - July
  - ▶ Staff Meetings preparing proposed budget
- ▶ Week of August 5-9
  - ▶ Review 2020-2021 General Fund Budget with each council member and mayor
- ▶ August 13-Council/Manager Meeting
  - ▶ Review 2020-2021 General Fund Budget
- ▶ Week of September 4-6
  - ▶ Review 2020-2021 Other Funds Budget & 2020-2029 CIP with each council member and mayor
- ▶ September 10-Council/Manager Meeting
  - ▶ Review all other funds budgets (Enterprise, Special Revenue, Internal Service Funds)
  - ▶ Review 2020-2029 Capital Improvement Program
  - ▶ Review 2020 Proposed Levy and Tax Impact
- ▶ September 17-Council Meeting
  - ▶ Proposed Property Tax Hearing (Amount Approved will go on notice for Nov)
- ▶ December 3-Council Meeting
  - ▶ Property Tax Hearing-Adoption

## General Fund Expenditures

- ▶ Reduced General Fund Budget by \$195,000
  - ▶ Branding -\$100,000
  - ▶ Compensation Study -\$50,000
  - ▶ Survey -\$15,000
  - ▶ Handguns-\$30,000

## Tax Capacity, continued

Tax Capacity	2019	2020	2020-1
Total Gross Tax Capacity	49,967,587	53,546,362	54,005,847
Estimated Fiscal Disparities Contribution	(7,107,691)	(7,678,701)	(7,678,701)
Estimated Fiscal Disparities Distribution	2,036,113	2,091,318	2,091,318
Estimated Tax Increment Tax Capacity	(834,500)	(1,119,826)	(1,151,192)
Total Net Tax Capacity for Local Tax Rate	44,061,509	46,839,153	47,267,272

## TOTAL PROPOSED 2020 LEVY

	Levy Payable 2019	First 2020 Proposed before cuts		Proposed Levy Payable 2020	
General Fund	18,625,845	19,844,140	6.54%	19,649,140	5.49%
Fire Relief Levy	0	0		0	
Bonded Debt:					
Street Improvement Bonds	3,881,654	4,205,594		4,205,594	
Brookview Community Center	1,216,300	1,218,300		1,218,300	
Equipment Certificates					
Debt Sub-Total	5,097,954	5,423,894	6.39%	5,423,894	6.39%
<b>TOTAL Levy</b>	<b>23,723,799</b>	<b>25,268,034</b>	<b>6.51%</b>	<b>25,073,034</b>	<b>5.69%</b>

## Tax Capacity, continued

Median Home	2019	2020-1	2020	% increase (decrease)
Property Value	\$312,000	327,000	\$327,000	4.81%
Tax Rate	53.779%	53.95%	53.011%	
City Portion of Taxes		\$93.52 \$7.93 per month or 5.74%	\$63.42 \$5.29 per month or 3.89%	

## Proposed Quarterly Residential Utility Account

Starts April 1	2019	2020
Water (8,000)	60.15	65.70
Emer Water Supply	2.40	2.40
Sewer	76.81	79.11
ST OF MN	1.59	<b>2.43</b>
Recycling	15.00	16.00
Street Light	8.31	8.56
Storm Utility	24.00	25.00
<b>TOTAL</b>	<b>181.05</b>	<b>199.20</b>

## Total 2020 Proposed Taxes - Fees

	Proposed Increase
Property Taxes on Median Home	\$63.42
Utility Bill	72.60
<b>Total</b>	<b>\$136.03 or \$11.34 per month</b>

## City Council

### REGULAR MEETING AGENDA

Sept 17, 2019 – 6:30 pm  
Council Chambers  
Golden Valley City Hall  
7800 Golden Valley Road

**1. Call to Order**

- A. Pledge of Allegiance
- B. Roll Call

Pages

**2. Additions and Corrections to Agenda**

**3. Consent Agenda**

Approval of Consent Agenda - All items listed under this heading are considered to be routine by the City Council and will be enacted by one motion. There will be no discussion of these items unless a Council Member so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.

- A. Approval of Minutes:
  - 1. City Council Executive Session – August 20, 2019
  - 2. City Council Meeting – September 3, 2019
- B. Approval of City Check Register
- C. Licenses:
  - 1. Approve New & Used Vehicle Sales License
- D. Minutes of Boards and Commissions:
- E. Bids and Quotes:
- F. Appointment of Election Judges and Absentee Ballot Board for General Election on November 5, 2019 19-
- G. Call for Special Council Meeting to Canvass 2019 Election Results for November 12, 2019
- H. Resolution Restricting Parking on Glenwood Ave between Hwy 100 and Xerxes Ave 19-
- I. Establish No Parking Restrictions on Lilac Drive North between Turners Crossroad and Trunk Highway 100 19-

**4. Public Hearing**

**5. Old Business**

**6. New Business**

All Ordinances listed under this heading are eligible for public input.

- A. Approve Pollinator Resolution & MOU with Garden Club 19-
- B. Adopt Proposed 2020 Budget and Proposed Tax Levies Payable in 2020 19-
- C. Review of Council Calendar
- D. Mayor and Council Communications

**7. Adjournment**



This document is available in alternate formats upon a 72-hour request. Please call 763-593-8006 (TTY: 763-593-3968) to make a request. Examples of alternate formats may include large print, electronic, Braille, audiocassette, etc.



## City Council

Wednesday, Oct 2, 2019 – 6:30 pm

Council Chambers

Golden Valley City Hall

7800 Golden Valley Road

### REGULAR MEETING AGENDA

**1. Call to Order**

- A. Pledge of Allegiance
- B. Roll Call

Pages

**2. Additions and Corrections to Agenda**

**3. Consent Agenda**

Approval of Consent Agenda - All items listed under this heading are considered to be routine by the City Council and will be enacted by one motion. There will be no discussion of these items unless a Council Member so requests in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.

- A. Approval of Minutes:
  - 1. City Council Meeting – September 17, 2019
- B. Approval of City Check Register
- C. Licenses:
  - 1.
- D. Minutes of Boards and Commissions:
  - 1.
- E. Bids and Quotes:
  - 1.

**4. Public Hearing**

- A. Public Hearing – Special Assessments – 2019 Delinquent Utility Bills 19-
- B. Public Hearing – Special Assessments – 2019 Miscellaneous Charges 19-

**5. Old Business**

**6. New Business**

All Ordinances listed under this heading are eligible for public input.

- A. First Consideration – Tobacco Ordinance Amendment
- B. Review of Council Calendar
- C. Mayor and Council Communications

**7. Adjournment**



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# City Council/Manager

Thursday, Oct. 10, 2019 – 6:30 pm  
Council Conference Room  
Golden Valley City Hall  
7800 Golden Valley Road

## REGULAR MEETING AGENDA

### Pages

1. Waste Hauling License Ordinance
2. Narrow Lot Line Discussion
3. Review Master Fee Schedule
4. Gambling Ordinance
5. Council Review of Future Draft Agendas: City Council October 15, City Council Wednesday November 6 and Council/Manager November 12, 2019

Council/Manager meetings have an informal, discussion-style format and are designed for the Council to obtain background information, consider policy alternatives, and provide general directions to staff. No formal actions are taken at these meetings. The public is invited to attend Council/Manager meetings and listen to the discussion; public participation is allowed by invitation of the City Council.



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