

6:20 p.m. ECONOMIC DEVELOPMENT AUTHORITY – council chambers

- 1. Call to order**
- 2. Roll call**
- 3. Approval of minutes**
 - 3a.** EDA meeting minutes Dec. 2, 2019
- 4. Approval of agenda and items on EDA consent calendar -- None**
- 5. Reports -- None**
- 7. New business**
 - 7a.** 2020 final HRA levy certification and budget adoption
Recommended action: Motion to adopt EDA Resolution authorizing the 2020 final HRA levy.

6:30 p.m. CITY COUNCIL MEETING – council chambers

- 1. Call to order**
 - 1a.** Pledge of allegiance
 - 1b.** Roll call
- 2. Presentations**
 - 2a.** Recognition of donations
- 3. Approval of minutes**
 - 3a.** City council meeting minutes of Nov. 18, 2019
 - 3b.** Special study session minutes of Nov. 18, 2019
 - 3c.** Study session minutes of Nov. 25, 2019
- 4. Approval of agenda and items on consent calendar**

NOTE: The Consent Calendar lists those items of business which are considered to be routine and/or which need no discussion. Consent items are acted upon by one motion. If discussion is desired by either a Councilmember or a member of the audience, that item may be moved to an appropriate section of the regular agenda for discussion. The items for the Consent Calendar are listed on the last page of the Agenda.

Recommended action: Motion to approve the Agenda as presented and items listed on the Consent Calendar; and to waive reading of all resolutions and ordinances. (Alternatively: Motion to add or remove items from the agenda, or move items from Consent Calendar to regular agenda for discussion.)
- 5. Boards and commissions – None**

6. Public hearings

6a. Sale of e-cigarettes and vaping products

Recommended action: Mayor is asked to open the public hearing, take testimony, and then close the public hearing. Motion to approve the first reading of an ordinance prohibiting the sale of e-cigarettes and vaping products and set second reading for January 6, 2020.

7. Requests, petitions, and communications from the public – None

8. Resolutions, ordinances, motions and discussion items

8a. 2020 budget, final city and HRA property tax levies, and 2020-2029 capital improvement plan (CIP)

Recommended action:

- Motion to adopt Resolution approving the 2020 budgets and authorizing the 2020 final property tax levy.
- Motion to adopt Resolution authorizing the 2020 final HRA levy.
- Motion to adopt Resolution approving the 2020-2029 capital improvement plan.
- Motion to adopt 2019 budget amendment.

8b. Resolution accepting annual city manager evaluation

Recommended action: Motion to adopt Resolution for formal acceptance of the final city manager annual evaluation.

8c. 2020 non-union employee compensation

Recommended action: Motion to adopt Resolution confirming a 3% general increase for non-union employees effective 1/1/20, approving the city manager's salary for 2020, and continuing participation in the Volunteer Firefighter Benefit Program.

8d. Recognition of Councilmembers Steve Hallfin and Thom Miller

Recommended action:

- On behalf of the city council and city manager, the mayor is asked to recognize Steve Hallfin for his years of service as Councilmember At Large A of the St. Louis Park City Council from Jan. 3, 2012 to Jan. 6, 2020.
- On behalf of the city council and city manager, the mayor is asked to recognize Thom Miller for his years of service as Councilmember At Large B of the St. Louis Park City Council from Jan. 4, 2016 to Jan. 6, 2020.

9. Communications – None

Auxiliary aids for individuals with disabilities are available upon request. To make arrangements, please call the administration department at 952/924-2525 (TDD 952/924-2518) at least 96 hours in advance of meeting.
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Consent calendar

- 4a.** Approve the second reading and adopt Ordinance amending chapter 36 of the St. Louis Park code of ordinances relating to the zoning map and to publish the revised official zoning map.
- 4b.** Approve second reading and adopt Ordinance amending Section 36-361 pertaining to off-street parking and to approve the summary ordinance for publication.
- 4c.** Adopt Resolution to recognize Chad Kraayenbrink for his years of service.
- 4d.** Adopt Resolution approving final plans and specifications, and authorizing advertisement for bids for Louisiana Avenue Bridge replacement - Project No. 4018-1700.
- 4e.** Approve second reading and adopt Ordinance prohibiting parking in city hall east lot and approve summary ordinance for publication.
- 4f.** Approve the 2020 Neighborhood Grants.
- 4g.** Adopt Resolution authorizing execution of a contract with Summit Envirosolutions, Inc. (Summit) for 2020 consultant services related to the implementation of the Reilly Tar & Chemical Corporation (Reilly) Remedial Action Plan (RAP).
- 4h.** Adopt Resolution approving acceptance of a \$100 donation from St. Louis Park Golden Kiwanis for the Westwood Hills Nature Center 38th annual Halloween party and \$100 from Leslie Marcus for park enhancements or program needs at Westwood Hills Nature Center.
- 4i.** Adopt Resolution accepting work and authorizing final payment in the amount of \$9,497.98 for the annual concrete replacement project with Universal Services, Inc. - Project No. 4019-0003, City Contract No. 60-19.
- 4j.** Authorize execution of an amendment to the professional services contract with SRF Consulting Group, Inc. in the amount of \$163,248.61 for the preliminary and final design of the Dakota-Edgewood bridge and bikeway project (4019-2000).
- 4k.** Adopt Resolution delegating authority to make electronic funds transfer.

St. Louis Park Economic Development Authority and regular city council meetings are carried live on civic TV cable channel 17 and replays are frequent; check www.parktv.org for the schedule. The meetings are also streamed live on the internet at www.parktv.org, and saved for video on demand replays. The agenda is posted on Fridays on the official city bulletin board in the lobby of city hall and on the text display on civic TV cable channel 17. The agenda and full packet are available by noon on Friday on the city's website.

**Unofficial minutes
EDA meeting
St. Louis Park, Minnesota
Dec. 2, 2019**

1. Call to order

President Hallfin called the meeting to order at 6:25 p.m.

Commissioners present: President Steve Hallfin, Tim Brausen, Rachel Harris, Anne Mavity, Thom Miller, and Margaret Rog.

Commissioners absent: Jake Spano, Tim Brausen

Staff present: Executive Director (Mr. Harmening), Community Development Director (Ms. Barton), City Attorney (Mr. Mattick), Chief Financial Officer (Mr. Simon), Police Chief Harcey, Deputy City Manager/Human Resources Director (Ms. Deno), Building & Energy Director (Mr. Hoffman), Engineering Director (Ms. Heiser), Assistant Zoning Administrator (Mr. Morrison), Senior Planner (Mr. Walther), Planner (Ms. Monson), City Clerk (Ms. Kennedy), City Assessor (Mr. Bultema), Senior Engineering Project Manager (Mr. Sullivan), Transportation Engineer (Mr. Manibog), Senior Management Analyst (Ms. Solano), and Recording Secretary (Ms. Pappas).

2. Roll call

3. Approval of minutes

3a. EDA meeting minutes of November 4, 2019

It was moved by Commissioner Harris, seconded by Commissioner Miller, to approve the Nov. 4, 2019 meeting minutes as presented.

The motion passed 5-0 (Commissioners Brausen and Spano absent).

4. Approval of agenda and items on EDA consent calendar

- 4a.** Accept for filing EDA disbursement claims for the period of Oct. 26 through Nov. 22, 2019.
- 4b.** Adopt **EDA Resolution No. 19-14** approving the decertification of the Edgewood TIF District.
- 4c.** Adopt **EDA Resolution No. 19-15** modifying the tax increment financing plan for the Wolfe Lake TIF District to allow for additional pooling for affordable housing.
- 4d.** Adopt **EDA Resolution No. 19-16** modifying the tax increment financing plan for the Ellipse TIF District to allow for additional pooling for affordable housing.

It was moved by Commissioner Mavity, seconded by Commissioner Harris, to approve the EDA agenda as presented and the items on the consent calendar.

The motion passed 5-0 (Commissioners Brausen and Spano absent).

- 5. **Reports - none**
- 6. **Old business - none**
- 7. **New business - none**
- 8. **Communications – none**
- 9. **Adjournment**

The meeting adjourned at 6:27 p.m.

Melissa Kennedy, secretary

Steve Hallfin, president

Executive summary

Title: Sale of e-cigarettes and vaping products

Recommended action: Mayor is asked to open the public hearing, take testimony, and then close the public hearing. Motion to approve the first reading of an ordinance prohibiting the sale of e-cigarettes and vaping products and set second reading for January 6, 2020.

Policy consideration: Will the restriction on the sale of e-cigarettes and vaping products be a benefit to the community's public health.

Summary: At the October 14 and 28 study sessions, council discussed a proposed ban of selling e-cigarettes and vaping products in the city due to the health risks that are being experienced. The proposed action by the council is addressing the concerns voiced from residents both young and old.

During the October 28, 2019 study session council discussed possible regulation of various e-cigarettes and vaping products and directed staff to proceed with development of a draft ordinance. The proposed ordinance would amend City code chapter 8, division 3, subdivision X by prohibiting the sale of e-cigarettes and vaping products as regulated by code.

Notice of the ordinance being considered and an invitation to attend an informational meeting was mailed to all tobacco license holders over thirty days in advance. Informational meetings were offered by staff on November 14 and 21, 2019 to explain the proposed regulation and answer questions. Only one person, who represented the BP station, attended.

Financial or budget considerations: Not applicable.

Strategic priority consideration: Not applicable.

Supporting documents: Discussion
Ordinance
Summary ordinance

Prepared by: Ann Boettcher, property maintenance & licensing manager

Reviewed by: Brian Hoffman, director of building & energy

Approved by: Tom Harmening, city manager

Discussion

Background: In 2017 the council approved two amendments to the tobacco establishment license code; raising the legal age to purchase tobacco to 21 and prohibiting the sale of all flavored tobacco products except for menthol and wintergreen.

At study sessions during October, 2019, council discussed the possibility of prohibiting the sale of all e-cigarettes and vaping products due to the public health issues these products create. The city attorney at the October 28 study session indicated the council would have the ability to adopt an ordinance within the business licensing provisions of the city code to prohibit the sale of e-cigarettes and vaping products in the city.

Present considerations: E-cigarettes are sometimes called e-cigs, vapes, e-hookahs, vape pens and electronic nicotine delivery systems (ENDS). Some products are designed to look like regular cigarettes, cigars or pipes. Some look like USB flash drives, pens and other everyday items.

With assistance from Ruth Tripp, Hennepin County Public Health, the following facts, *in italics*, are being provided for council consideration during discussion.

Minnesota vaping-associated lung injuries (This information is updated weekly at the [MDH vaping-associated lung injury page](#).)

- *As of November 26, 2019, Minnesota has 125 confirmed or probable vaping-associated lung injury cases and 23 cases under review. There have been 3 deaths.*
- *29 of the confirmed and probable cases in Minnesota are Hennepin County residents. Ten cases are Minneapolis residents and the remaining are suburban residents.*
- *The Minnesota Department of Health is working with local public health departments, including Hennepin County Public Health, and health care providers to investigate reports of severe lung injury potentially related to vaping and e-cigarette use.*

National data on vaping-associated lung injuries.

https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html

- *As of November 20, 2019, there are 2,290 cases of e-cigarette, or vaping product use associated lung injury with 47 deaths.*
- *Among the 2,016 cases with available data on hospitalization status (as of November 5, 2019):*
 - *77% were under 35 years old;*
 - *Ages range from 13-78 years with a median age of 24 years;*
 - *95% were hospitalized;*
 - *68% were male.*

2019 Minnesota Student Survey (MSS) (conducted January – May 2019)

- *The 2019 MSS of youth attending St. Louis Park (SLP) School District tells us that:*
 - *26% of 11th graders and 18% of 9th graders used any form of tobacco in the past 30 days.*
 - *E-cigarettes are the most commonly used commercial tobacco product.*

- 24% of 11th graders and 17% of 9th graders reported vaping in the past 30 days.
- More girls (20%) in 9th grade report vaping in the past 30 days than boys (15%).
- Use of conventional products by 11th graders are less common than e-cigarette use. In the past 30 days:
 - Two percent used smokeless products;
 - Three percent smoked cigarettes and same amount used cigar products;
 - Four percent used a hookah or waterpipe to smoke tobacco.
- Young people commonly use menthol and flavored tobacco products. Of those who used tobacco in the past 30 days, the proportion who reported using menthol and flavored products is as follows:

<i>Of SLP students who used tobacco in the past 30 days, the proportion who used:</i>	<i>9th grade</i>	<i>11th grade</i>
<i>Menthol</i>	<i>33%</i>	<i>43%</i>
<i>Flavored</i>	<i>44%</i>	<i>40%</i>

- *Statewide MSS data shows that:*
 - *Underage youth report easy access to e-cigarette products. In Minnesota, over 23% of underage 11th grade students bought e-cigarettes directly from a retail outlet (14% in a vape shop; 9.6% online). Vape stores are often located near schools and universities.ⁱ*
 - *The survey also found Minnesota youth are ill-informed about the health risks of e-cigarettes with 76% of 11th graders saying there is either no, slight or a moderate risk to using e-cigarettes. One of the common reasons youth use e-cigarettes is because they believe vaping is mostly harmless.*

The use of e-cigarettes/vapes is unsafe for all ages, especially for youth and young adults. Nearly all e-cigarettes contain nicotine, which is highly addictive and harmful to the adolescent developing brain (under 25 years). Nicotine can harm the parts of the brain that control attention, learning, mood, and impulse control. The aerosol from e-cigarettes/vapes contains harmful and potentially harmful constituents, such as ultrafine particles; heavy metals like nickel, tin, and lead; and other cancer-causing chemicals. E-cigarettes/vaping products are not currently regulated by the Food and Drug Administration (FDA).

Medical experts still do not know the effects and potentially harmful doses of heated and aerosolized constituents of e-cigarette liquids, including solvents, flavorants, and toxicants. E-cigarettes are not approved by the FDA as an aid to quit smoking and may expose users to some of the same toxic chemicals found in combustible cigarette smoke. There are other proven, safe, and effective methods for quitting smoking.

The FDA and the Centers for Disease Control and Prevention (CDC) have identified Vitamin E Acetate as associated with the injuries. The evidence is not yet sufficient to rule out the contribution of other chemicals. Many different substances and product sources are still under investigation, and it may be that there is more than one cause of this outbreak.

Young e-cigarette users often have never smoked combustible cigarettes. There is increasing evidence that young people who use e-cigarettes are more likely to become tobacco smokers, compared to youth who have never used e-cigarettes.ⁱⁱ

In 2018, the Minnesota Adult Tobacco Survey showed a sharp increase in young adult (18-24 year olds) e-cigarette use, from 13% in 2014 to 22% in 2018.ⁱⁱⁱ Three in four young adult e-cigarette users reported never having used tobacco products before they started using e-cigarettes.

To date, no other cities in Minnesota have adopted a restriction on e-cigarette sales that does not include an exemption for some stores, such as adult-only tobacco/vape stores. The city of Rushford MN is currently considering a similar approach to St. Louis Park. San Francisco banned all electronic delivery devices.

The city currently has 21 establishments licensed to sell tobacco products. Of those 21, only eight have been identified as selling e-cigarettes/vaping products. Notices of the proposed ordinance, public hearing, and two informational meetings that were held on November 14 and 21 were sent out to all license holders, including for a new establishment not yet open. Only one person attended the two meeting opportunities. A person representing a company with a SLP tobacco license, shared concern that this proposed action will cause customers to go to the neighboring cities to purchase not only their vaping products, but other products that are purchased at the same time. She added, this type of action would better serve the public if it was a statewide mandate. Staff did not receive any other emails/calls regarding this amendment. Staff also sent letters to the advocates from the previous actions taken in 2017 informing them of the proposed amendment and public hearing time.

At a December 4, 2019 news conference, Governor Walz along with Attorney General Ellingson announced the state filed a lawsuit against Juul Labs accusing the e-cigarette maker of unlawfully targeting young people with its products to get a new generation addicted to nicotine. Also, Governor Walz has called on the legislature to ban flavored e-cigarette products and create a state-wide ban on tobacco products for anyone under 21.

Next steps: If the council approves the first reading, the second reading is scheduled for January 6, 2020. Publication of the summary ordinance will occur on January 16, 2020 and the proposed effective date for the ordinance will be February 1, 2020. Staff will be conducting their annual licensed establishment inspections after February 1 to ensure all e-cigarettes and vaping products have been removed from the shelves.

ⁱ Public Health Law Center Tobacco Control Legal Consortium. (2019). *Location, location, location: Tobacco & e-cig point of sale*. Available at: <https://publichealthlawcenter.org/sites/default/files/resources/Location-Tobacco-Ecig-Point-Of-Sale-2019.pdf>.

ⁱⁱ Berry, K.M., et al., *Association of electronic cigarette use with subsequent initiation of tobacco cigarettes in US youths*. JAMA network open, 2019. **2**(2): p. e187794-e187794.

ⁱⁱⁱ ClearWay Minnesota. Minnesota Adult Tobacco Survey. Available at: <http://clearwaymn.org/mats/>. Accessed 10/15/19.

Ordinance No. ____-20

**City of St. Louis Park
Hennepin County, Minnesota**

An ordinance amending St. Louis Park City Code Chapter 8 – Business and Licenses, Subdivision X. Tobacco Products and Tobacco Related Devices, Section 8-374 Regulations Adopted and Section 8-378 Violations; Penalty to ban sales of certain electronic delivery devices

The City of St. Louis Park does ordain:

Section 1. Findings.

(a) As of October 22, 2019, the United States Centers for Disease Control and Prevention (CDC) reports 1,604 cases of e-cigarette, or vaping, product use associated lung injury (EVALI) from 49 states (all except Alaska), the District of Columbia, and one United States territory.

(b) As of October 22, 2019, the CDC reports 34 confirmed EVALI related deaths in 24 states. More deaths are under investigation.

(c) As of October 22, 2019, the CDC reports three confirmed EVALI related deaths in Minnesota.

(d) CDC reports that as of October 22, 2019 the age range for EVALI patients ranges from 13 years to 75 years with a median age of 24 years.

(e) EVALI case counts continue to increase and new cases are being reported.

(f) All EVALI patients reported a history of using e-cigarette, or vaping products.

(g) Tetrahydrocannabinol (THC) was present in most of the samples tested by FDA as of October 22, 2019, and most EVALI patients reported a history of using THC containing products. CDC reports that the latest national and state findings suggest e-cigarette, or vaping products containing THC, particularly those obtained off the street or from informal sources (e.g. friends, family members, illicit dealers), are linked to most of the EVALI cases and play a major role in the outbreak. However, as of October 22, 2019, the Food and Drug Administration (FDA) and CDC had not identified the cause or causes of the reported lung injuries, and the only commonality among all cases is that patients report the use of e-cigarette, or vaping products. CDC reports no one compound or ingredient had emerged as the cause of EVALI and there may be more than one cause of EVALI. The cause of EVALI remains unknown.

(h) As of October 22, 2019, CDC recommends that since the specific compound(s) or ingredient(s) causing lung injury are not yet known, the only sure way avoid EVALI while the investigation continues is to refrain from use of all e-cigarette, or vaping, products.

(i) According to the Minnesota Department of Health (MDH) 2019 statistics 26.4% of 11th graders, 16.3% of 9th graders, and 11.1% of 8th graders, report current use of electronic cigarettes.

(j) Virtually all electronic cigarettes that are sold today entered the market after 2007, but have not been reviewed by the FDA to determine if they are appropriate for the public health. In 2017, the FDA issued Guidance that purports to give electronic cigarette manufactures until August 8, 2022 to submit their application for premarket review. The Guidance further purports to allow unapproved products to stay on the market indefinitely, until such time as FDA complies with its statutory duty to conduct a premarket review to determine whether a new tobacco product poses a risk to public health.

(k) By the time electronic cigarette manufactures will be required to submit their premarket review applications, electronic cigarettes will have been on the market for fifteen years without any FDA analysis of their safety and alleged benefit. In light of the immediate health threat posed by EVALI, the City of St. Louis Park is not content to wait for FDA action to address for its residents what appears from the evidence to be a major health crisis that is going unattended.

Section 2. City Code Chapter 8 – Business and Licenses, Subdivision X. Tobacco Products and Tobacco Related Devices, Section 8-374 Regulations Adopted is amended by adding the underlined language as follows:

Sec. 8-374. Regulations Adopted.

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

- (1) To any person under the age of 21 years.
- (2) By means of any type of vending machine.
- (3) By means of self-service merchandising 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-related device, electronic delivery device, nicotine or lobelia delivery product. All such products shall be stored behind a counter or other area not freely accessible to customers.
- (4) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana or other type of deleterious, hallucinogenic or toxic or controlled substance, except nicotine, and not naturally found in tobacco, tobacco-related devices or electronic delivery devices.
- (5) By any other means or to any other person prohibited by federal, state or other local laws, ordinances or other regulations.
- (6) That meets the definition of flavored product.

(b) Tobacco, sampling of tobacco, electronic delivery devices, nicotine or lobelia delivery products within an establishment selling any tobacco, tobacco product, tobacco related devices, electronic delivery devices, nicotine or lobelia delivery product is prohibited.

(c) No person shall sell, offer to sell, or distribute liquid, whether or not such liquid contains nicotine that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging as that term is defined in Code of Federal Regulations, title 16, section 1700.15 (b)(1), as in effect on January 1, 2015. A licensee that fails to comply with this subpart is subject to administrative penalty pursuant to Minn. Stat. § 461.12, subd. 2.

(d) No person shall sell, offer to sell or distribute an electronic delivery device that:

- (1) Is a "new tobacco product" as defined in 21 U.S.C. § 387j(a)(1) as may be amended from time to time,
- (2) Requires FDA premarket review under 21 U.S.C § 387j, and
- (3) Does not have a premarket review order under 21 U.S.C. § 387j(c)(1)(A)(i), as may be amended from time to time.

Section 3. City Code Chapter 8 – Business and Licenses, Subdivision X. Tobacco Products and Tobacco Related Devices, Section 8-378 Violations; penalty is amended by adding the underlined language as follows:

Sec. 8-378. Violation; penalty.

(a) *Generally.* Any violation of this subdivision shall be grounds to revoke or suspend a license under this subdivision.

(b) *Criminal penalty.* As set forth in M.S.A. ch. 609, it shall be a:

- (1) Misdemeanor for anyone to sell tobacco, a tobacco-related device, electronic delivery device, nicotine or lobelia delivery product to a person under the age of 21 years for the first violation. Whoever violates this subdivision a subsequent time within five years of a previous conviction under this subdivision is guilty of a gross misdemeanor.
- (2) Misdemeanor to furnish tobacco, a tobacco-related device, electronic delivery device, nicotine or lobelia delivery product to a person under the age of 21 years. Whoever violates this paragraph a subsequent time is guilty of a gross misdemeanor.
- (3) Misdemeanor for anyone to sell or offer to sell a flavored product in violation of section 8- 374(a)(6).
- (4) Misdemeanor for anyone to sell, offer to sell or distribute liquid, whether or not such liquid contains nicotine, that is intended for human consumption and use in an electronic delivery device that is not contained in child-resistant packaging as that term is defined in

Code of Federal Regulations, title 16, section 1700.15 (b)(1), as in effect on January 1, 2015.

- (5) Petty misdemeanor for anyone under the age of 21 years to sell, furnish or give away any tobacco, tobacco-related device, electronic delivery device, nicotine or lobelia delivery product. This subsection shall not apply to a person age 18-20 years while working as an employee of a business holding a license granted pursuant to this subdivision.
- (6) Misdemeanor for anyone to sell an electronic delivery device in violation of section 8-374 (d).

(c) *Presumed penalties for Violations:* The presumed penalties for violations are as follows (unless specified, numbers below indicate consecutive business days' suspension):

Type of Violation	1st Violation	2nd Violation within 36 months	3rd Violation within 36 months	4th Violation within 36 months
1. Commission of a felony related to the licensed activity.	Revocation	N/A	N/A	N/A
2. Sale of tobacco, tobacco-related device, electronic delivery device, nicotine or lobelia delivery product while license is under suspension.	Revocation	N/A	N/A	N/A
3. Sale of tobacco, tobacco-related device, electronic delivery device, nicotine or lobelia delivery product to underage person.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation
4. Refusal to allow government inspectors or police admission to inspect premises.	5 days	15 days	Revocation	N/A
5. Illegal gambling on premises.	3 days	6 days	18 days	Revocation
6. Failure to attend mandatory education training.	\$250	\$750 and 1 day	\$2,000 and 3 days	Revocation
7. Prohibited sale or offer for sale of flavored products.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation
8. Prohibited sale or offer for sale of liquid intended for human consumption in an electronic delivery device that is not contained in child resistant packaging.	\$500	\$1,000 and 1 day	\$2,000 and 30 days	Revocation

The penalty for violations without a presumptive penalty shall be determined by the City Council. The imposition of the presumptive penalty shall be a written notice to the licensee and may be appealed through an administrative hearing process as set by the city manager. The city manager's decision may be appealed to the city council by filing a written appeal to the city clerk within ten days of receiving written notice of the city manager's decision.

(d) *Multiple violations:* At a licensee's first appearance before the Council, the Council must act upon all of the violations that have been alleged in the notice sent to the licensee. The Council in that case must consider the presumptive penalty for each violation under the first appearance column in subsection (B) above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the Council's discretion.

(e) *Subsequent violations:* Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the Council, unless the City Manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to the second, third, or fourth appearance before the Council.

(f) *Subsequent appearances:* Upon a second, third, or fourth appearance before the Council by the same licensee, the Council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the Council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this Section.

(g) *Computation of violations:* Multiple violations are computed by checking the time period of the three (3) years immediately prior to the date of the most current violation.

(h) *Other penalties:* Nothing in this Section shall restrict or limit the authority of the Council to suspend up to sixty (60) days, revoke the license, impose a civil fee not to exceed two thousand dollars (\$2,000.00), to impose conditions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided in this Chapter.

(i) *Additional Requirements.* In addition to civil penalties, every licensee that has been found in violation of this Chapter must enter into and complete an education training program approved by the City's Police Department.

(j) *Exceptions and defenses.* Nothing in this subdivision shall prevent the providing of tobacco, tobacco products or tobacco related devices to a person under the age of 21 as part of a bona fide religious, spiritual or cultural ceremony. It shall be an affirmative defense to a violation of this subdivision for a person to have reasonably relied upon proof of age as set forth by state law.

Section 4. This Ordinance shall take effect on February 1, 2020.

Adopted by the City Council of the City of St. Louis Park this 6th day of January, 2020.

Public Hearing	December 16, 2019
First Reading	December 16, 2019
Second Reading	January 6, 2020
Date of Publication	January 16, 2020
Date Ordinance takes effect	February 1, 2020

Reviewed for administration:

Adopted by the City Council (insert date)

Thomas K. Harmening, city manager

Jake Spano, mayor

Attest:

Approved as to form and execution:

Melissa Kennedy, city clerk

Soren Mattick, city attorney

Summary for publication

Ordinance No. ____-20

Prohibiting sale of e-cigarettes and vaping products

This ordinance amends the tobacco licensing Sec. 8-374(d) prohibiting the sale of e-cigarettes and vaping products and Sec. 8-378 violations.

This ordinance shall take effect 15 days after publication.

Adopted by the City Council Jan. 6, 2020

Jake Spano/s/
Mayor

A copy of the full text of this ordinance is available for inspection with the city clerk.

Published in St. Louis Park Sailor: Jan.16, 2020