COUNCIL WORKSESSION
SSP City Hall
125 3rd Avenue North
Training room
Tuesday, May 26, 2020
7:00 pm

Please be advised that the regular meeting location is City Hall Training Room located at 125 3rd Ave. N., South St. Paul, but pursuant to Minn. Stat. 13D.021, under the current emergency declaration due to the COVID-19 health pandemic, some or all of the council members may participate in remote locations using WebEx. Please be advised that City Hall is closed to the public, therefore, any member of the public wishing to monitor the meeting may do so electronically by logging in as follows:

WebEx Meeting
For the Public
Join by phone: 1-312-535-8110
Access Code: 285 419 723

AGENDA:

1. Concord Turnback Agreement
2. Thompson Turnback Agreement
3. Kaposia Landing Phase 2 – Change Order
4. Temporary Business Outdoor Customer Service Policy
5. 2021 Budget Guidance
6. Extension of Communications Support Contract with AE2S
7. 121 Hardman Court Development Agreement (AVM Group LLC)
8. Discussion on Re-Opening Plan
9. Tobacco Ordinance Revisions
10. Council Comments/Questions
AGENDA ITEM: Concord Street Turnback Update

ACTION TO BE CONSIDERED:

Information only: for input and discussion

OVERVIEW:

Since our last Worksession, there has been additional discussion regarding the specific terms of the Concord Turnback Agreement and each parties responsibilities. To keep the Council apprised of the progress, a summary of the major discussion points is as follows:

Funding
MnDOT has agreed to bear the financial responsibility for higher bid prices and/or construction changes of all State Funding eligible portions of the street work. This includes the street items that are eligible for State funding, but are being paid by the $7.5 million dollars of federal freight funds that the City secured and is contributing to the project.

We are still negotiating who will bear the financial risk of higher bid prices and/or construction cost changes for the retaining wall work between Wentworth Avenue and Fury Motors. MnDOT’s position was that they would have avoided the walls with their limited project therefore, the risk should be the City’s responsibility. Our position was that the retaining walls were constructed for the road to exist and are in a condition that requires replacement. As the current owner of the road, it was our belief that the risk should be MnDOT’s responsibility. Portions of the retaining walls are in the right-of-way and portions are out of the right-of-way, therefore there is a valid ownership question. Due to this fact, we have proposed a shared risk scenario where MnDOT would be responsible for the risk on portions of the wall within the right-of-way and the City would accept the risk for the wall portions that are completely out of the right-of-way. This would result in 70% of the risk lying with MnDOT and 30% of the risk to the City. At the present time these walls are estimated at $1.5 million and are fully funded. Our discussions are to determine the responsibility for costs beyond what is estimated and if the total project cost exceeds available funding.

Other Issues
As the Council is aware, Concord Street from I-494 to Grand is proposed to be turned back to Dakota County. In discussions with MnDOT regarding the turnback of this segment of roadway, the County has expressed a concern with a drainage issue in the existing storm sewer system that conveys stormwater from the Interstate and South St. Paul to the river. The outlet pipes from the 494 ramp area to the river have less capacity than the storm system west of the ramps. This results in water coming out of the structure in the east and west ramp areas during large rain events. Once
out of the storm system, the water runs onto Concord Street to Villaume Avenue and to the MnDOT ponds to the east. Normal design standards for a storm sewer pipe system is to have capacity to convey a 10-year storm event. The system meets that standard, however the County is requesting that MnDOT provide any maintenance required due to the overflow of water from the system. The County is also requesting some assurances that the river outlet pipe will be addressed in the future and that the County would not be responsible for those future costs.

MnDOT has indicated that they cannot retain responsibility for maintenance of a roadway that is not under their jurisdiction. In addition, the undersized pipe is outside of their system therefore they would not lead the effort to scope and design a project to address the issue. They have indicated they are willing to participate in that effort.

The pipe in question is part of the City’s system, but serves a significant drainage area. We have indicated to MnDOT that the City would not accept responsibility for the correction of flood damage on Concord Street. Staff feels that it would be appropriate for the City to lead a scoping study and design of a project to address this pipe with MnDOT and possibly other contributing entities as project partners. We feel that the turnback agreement can include statements to this fact, but should not commit to actual construction.

There are four options to resolve the County’s concern regarding possible costs for flood damage from the stormwater overflow.

1. The County changes its position and is willing to accept the roadway with the drainage system issue.
2. MnDOT agrees to accept continued responsibility for flood related costs even though the road is not in their jurisdiction.
3. The City changes its position to accept the responsibility for flood related costs on the County roadway.
4. The roadway from I-494 to Villaume is not included in the turnback. This would likely reduce the turnback funds provided by MnDOT.

This item is still under discussion and a resolution has not been agreed to. We can provide the Council with an update and any new information on these issues at the meeting.
AGENDA ITEM: Thompson Avenue (CR 6) Turnback Update

ACTION TO BE CONSIDERED:

Information only: for input and discussion

OVERVIEW:

Based on the discussion at the last Council Worksession meeting, we informed the County that the framework for the turnback of Thompson Avenue from TH 52 to Concord Street was acceptable. The only update from the material presented at the last meeting was an increase in the financial payment the County will be providing the City for accepting the roadway. This change was negotiated with the County based on a revision of the boundary between the sections of road to be compensated as full reconstruction versus a mill and overlay improvement. The change resulted in an additional amount to the City of approximately $230,000 bringing the total to $2,336,900.

We have asked the County to prepare an official turnback agreement document for review by staff and the City Attorney. At this time we have not received the document, but expect that it will be provided with sufficient time to allow review and formal action by the Council at the June 15th Council meeting. We will provide any additional new information at the worksession.
AGENDA ITEM: Kaposia Landing Phase 2 Construction Change Order #1

DESIRED MEETING OUTCOMES:

Review and discuss Kaposia Landing Phase 2 change order related to construction.

OVERVIEW:

In a continuing effort to lower project costs identified with the construction of Kaposia Landing Phase 2, staff has worked with design consultant WSB and construction contractor Veit to alter project specifications resulting in a deduct change order. Project alterations resulting in deduct credits include:

1. Remove road bituminous pavement: Deduct -$2,408.00
   Justification: No longer needed with Alternate A (total reclamation of Metzen Parkway)

2. Sawcut bituminous drive payment: Deduct -$10,520.20
   Justification: No longer needed with Alternate A

3. Storm drain pipe changes (RCP to HDPE): Deduct -$11,491.
   Justification: Value engineering change

4. Aggregate base: Deduct -$9,400.00
   Justification: Lesser quantity needed with Alternate A

5. Concrete Curb and Gutter design (B618 to B612): Deduct -$1,196.25
   Justification: Match existing curb and gutter type

6. Tree purchase and installation: Deduct -$27,195.00
   Justification: The purchase and planting of 45 trees were included in the original plan. As a cost saving measure, staff will directly contract the purchase and installation of trees at the conclusion of construction directly in lieu of Veit’s hiring a subcontractor, which will result in an overall project cost savings.

The deduction due to the items listed above totals $62,201.25. Additional minor changes in quantities total approximately $9,000 in additional savings. With these changes, staff requests the ability to broaden the scope to include reclaiming and paving of Metzen Parkway from the dog park to the entry cul-de-sac as part of the project. The estimated cost to complete the work is $59,425.00. The original project scope includes reclaiming and paving Metzen Parkway, the park’s main road, from the new parking area south to the south entrance of the off-leash dog area. Through material changes and creative design, the deduct change orders will provide enough project funding to continue the reclaiming of the roadway south to the cul-de-sac entry while maintaining the existing project budget. Metzen Parkway opened in 2008 and in 12 years has experienced traffic volumes that have caused rapid deterioration of the parkway. During Phase 2,
we have the unique ability to reclaim and pave the roadway with the existing contractor that is already on site, at a reduced cost.

Staff proposes to present Council with the formal Change Order #1 at the June 1st meeting which will reduce the contract amount from $1,070,091.65 to $1,060,513.70.

**SOURCE OF FUNDS:**

Dakota County Environmental Legacy Fund (ELF) Grant and City Capital Improvement Program Funds
AGENDA ITEM: Temporary Business Outdoor Customer Service Policy

DESIRED OUTCOMES:

- Discuss Minnesota’s new Covid-19 policy for bars and restaurants that begins on June 1st.
- Discuss City’s option to adopt a policy temporarily waiving some zoning and permitting requirements during the City’s peacetime state of emergency for businesses that want to have an outdoor service area.
- Get direction from Council about how to proceed.

OVERVIEW:

On June 1st, the State is set to modify some of the restrictions that have been placed on commercial businesses as a result of the Covid-19 pandemic. Restaurants and bars will be allowed to reopen for on-site dining/serving (take-out and delivery are already allowed) but indoor dining will not be permitted at this time. Only outdoor dining will be allowed and it is with some conditions:

- Outdoor patios and serving areas will be limited to serving 50 patrons at a time.
- Patrons must make reservations before going to the restaurant.

For those bars restaurants that have large existing outdoor dining areas, this guidance from the State will allow them to start operating on June 1st without issues. However, there are many bars and restaurants that do not have existing outdoor dining areas or that have outdoor dining areas that are too small to operate safely while practicing social distancing. Additionally, many restaurants cannot afford to justify reopening on-site dining unless they are able to serve enough patrons to make the operation profitable and many may need enough outdoor dining space to accommodate the full 50 allowed patrons before their operation is profitable.

South St. Paul, like most cities, has Code rules relating to outdoor dining areas. The City requires a Conditional Use Permit for outdoor dining areas which has at least a 45-day review period. Additionally, there are numerous site design requirements including setback and parking requirements. It would not make sense for any restaurant to go through this process for a temporary outdoor dining area and many restaurants would not be able to qualify for the Conditional Use Permit.

In an effort to support their local businesses, many cities throughout Minnesota are exploring the adoption of resolutions that would establish a temporary policy for allowing businesses to offer temporary outdoor dining and other outdoor customer services on their properties. The temporary outdoor services would take place primarily on parking lots and grassy areas. Generally, these services would be allowed to operate until the local emergency is over or until Council repeals or modifies the temporary policy.
Discussion

Staff believes this is a good way to support our business community and would note the following:

- Many of our businesses have parking lots that are sized to accommodate customers when the business is at 100% capacity. If the business is operating at reduced capacity, much of the parking will not be needed.

- Most of our restaurants (and other businesses) are located near streets that have on-street parking. During “normal times” there can sometimes be disagreement between businesses and neighborhoods about the appropriateness of customers parking on the street in front of houses. During an emergency situation like we are facing right now, Staff believes that most residents will support giving businesses more flexibility to allow them to operate safely and survive the difficult financial situation that they have been placed in by the pandemic.

- Some Cities have explored taking this effort even further by temporarily closing down some streets and alleys to provide additional outdoor seating areas for restaurants. This is generally something that cities do if they have a lot of “main street” businesses which do not have large parking lots or grassy areas to convert into outdoor dining areas.

- Many cities that are doing this are streamlining the review process by not requiring any extra permits/licenses to begin operating an outdoor service area and instead just requiring that the business give the City a “heads up” that they are moving forward with having an outdoor service area. Businesses are required to follow the guidelines laid out in the temporary policy resolution. Businesses are required to develop plans for their own use and the City can request to review these plans if there are issues.

- The City will still need to require building permits and/or fire permits for any projects that are subject to the State Building Code or Fire Code.

- Liquor service still requires additional review.

- The policy will not allow any permanent site improvements to be made without going through a normal City review process.

- Many cities are adopting policies that more generally allow “outdoor customer service areas” rather than being specific to restaurants. This grants flexibility to other businesses that are also dealing with logistics issues relating to the pandemic.

- The City Council has the right to modify the temporary policy if problems arise.
Direction Needed

If the City Council wants to move forward with adopting a policy, Staff should be directed to prepare a resolution to bring to a regular or special City Council meeting.

Staff is attaching copies of resolutions that were recently prepared in other cities in Dakota County. Staff’s intention would be to model South St. Paul’s resolution after these other resolutions unless Council specifically requests that other language be considered.

SOURCE OF FUNDS: N/A

ATTACHMENTS

A- Lakeville Temporary Policy Resolution
B- West St. Paul temporary policy Resolution
Policy for Temporary Outdoor Customer Service Areas

Pursuant to Mayoral Proclamation and Council Resolution, the City of Lakeville has declared a Peace Time Emergency due to the COVID-19 Health Pandemic.

In furtherance of the federal, state and local government response, there is a need to provide multiple additional and alternative customer service areas on commercial sites in order to limit forward facing exchanges between customers and employees, and to promote physical and social distancing between persons engaged in business activities within the City.

Effective immediately, and notwithstanding any city code provision to the contrary, any business located in a commercial or industrial zone may establish drive-up or drive-thru areas, customer ordering, waiting or pick-up areas, or customer seating or service areas on its property to facilitate safe commercial activity conducted consistent with federal and state orders or guidelines. The temporary outdoor use may occur in parking areas or green space areas without need for a variance. However, if the business is not the fee owner of the property used by the business for the temporary outdoor use, any temporary outdoor use must have written approval from the fee owner of the premises.

No city permits are required prior to establishing these customer areas, but operators must prepare a traffic management plan and provide on-site traffic and operational management. Customer waiting, or service areas must not impede sidewalk usage nor block disabled person parking spaces or ramps, nor shall any activity create nuisance conditions for abutting properties.

On-site signage and storage is authorized as well as limited on-site directional signage. Temporary tables, tents and sun shelters may be erected, but any structure requiring state building and fire code permits must submit plans and permit applications for accelerated review by city staff.

The terms and conditions of this order may be modified or clarified by subsequent order and those changes may have retroactive effect.

This policy will continue until December 31, 2020 unless repealed by subsequent City Council action or termination of the local state of emergency. Effective this ___ day of May 2020.

Douglas P. Anderson, Mayor

Charlene Friedges, City Clerk
CITY OF WEST ST. PAUL
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. 20-

A RESOLUTION APPROVING TEMPORARY WAIVER OF CITY CODE PERMIT AND ZONING REQUIREMENTS TO PROMOTE BUSINESS ACTIVITIES DURING THE COVID-19 HEALTH PANDEMIC

WHEREAS, on March 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-01 declaring a Peace Time Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19; and

WHEREAS, in response, on March 20, 2020 the West St. Paul City Council adopted the Local Emergency declaration and invoked the city emergency plan and authorized appropriate response strategies to the pandemic; and

WHEREAS, the West St. Paul City Council recognizes the continued risk and threat of community spread of the COVID-19 virus and the negative impact it has had on local business and further recognizes the potential negative impact that may continue upon reopening absent the ability of businesses to provide appropriate distancing between its patrons and its employees while operating profitably; and

WHEREAS, in furtherance of the federal, state and local government response, there is a need to provide multiple, additional, or alternative customer service areas on commercial sites within the city in order to limit forward-facing exchanges between customers and employees and to promote physical and social distancing between patrons of a business and persons engaged in business activities.

NOW, THEREFORE, be it resolved that the City Council of the City of West St. Paul does hereby authorize the following:

1. A business located in a commercial or industrial zone may establish drive-up or drive-through areas, customer ordering, waiting or pick-up areas, or customer seating or service areas on its property to facilitate safe commercial activity conducted consistent with federal and state orders or health and safety guidelines, in accordance with the administrative approval of the Community Development Department, which shall develop performance standards.

2. Other than an amendment to a liquor license, no zoning, conditional use, or any other West St. Paul permit shall be required provided the Community Development Department’s performance standards are met.

3. Any business that desires to take advantage of such opportunity must complete an application form prepared by the Community Development Department.

4. The Community Development Director or designee shall have the authority to review and approve or deny a permit for any proposed temporary structure or operation
related to customer service, waiting or dining seating areas, or on-site signage and storage, or other temporary outdoor use that is proposed to occur outside of the business establishment in accordance with the established performance standards.

5. Any on-sale liquor establishment shall be required to obtain City Council approval to amend its service area, which approval shall not be denied as long as it complies with the Community Development Department’s performance standards.

6. The authority granted to the Community Development Director hereunder shall not otherwise allow any use or operation that is not in compliance with any federal laws or regulations, Minnesota statutes and regulations, including State Building and Fire Codes, and the Minnesota liquor licensing regulations.

7. The City reserves the right to revoke, terminate or modify permission of any drive-up or drive-through areas, customer ordering, waiting or pick-up areas, or customer seating or service areas if it is in the interest of the public health, safety and welfare, as determined by the Police Chief or City Manager.

8. This Resolution is effective immediately, subject to federal and state laws or orders relative to the permissibility of business operations and unless terminated earlier by the Council, shall be in effect through November 1, 2020.

Adopted by the City Council of the City of West St. Paul, Minnesota, this 26th day of May 2020.

Attest:

David J. Napier, Mayor

Shirley R Bueckslер, City Clerk
AGENDA ITEM: 2021 Budget Guidance

DESIRED MEETING OUTCOMES:

1. DISCUSS/PROVIDE DIRECTION ON BUDGET REVIEW PROCESS
2. PROVIDE DIRECTION ON 2020 LEVY TARGET (PERCENTAGE INCREASE)

OVERVIEW:

With the 2021 Budget cycle upon us, staff would like feedback on any recommended modifications to the budget review process utilized last year. As you will recall, we devoted a worksession to discussing the 2020 budget rather than having department heads attend meetings on a one-by-one basis to make their departmental request over a series of meetings. To aid in this process, staff prepared an overview memo with the significant budget drivers for revenues and expenses. That memo accompanied the budget document. The Council was then free to ask any department head questions relative to that department’s budget.

While that process seemed to work well, staff is willing to consider any modifications the Council deems appropriate to improve the process and provide the information you desire in considering budget decisions.

The other request we have is attain some guidance regarding a target for the percentage increase in the levy to guide us in our internal preparations with department heads. Given the challenges and uncertainties the pandemic has created, staff would assume you want to minimize the 2021 levy increase. Your guidance in this regard would be appreciated.

To aid in your consideration of this matter, here is some preliminary information on some key finance factors (Budget Drivers) for the 2021 budget cycle:

- Salaries – All Contracts are up from a salary standpoint for 2021.
- Health Insurance – We are scheduled to bid our health insurance renewal for 2021 per statutory requirements. However, it appears we have the option to forego that given there is no penalty for failing to comply. Our agents have informed us that a conservative (high-side) estimate is in the 10% to 15% range.
- Retiree Health Insurance Savings - $22,245
- Programmed Debt Service Decrease - $76,001
- We expect a number of revenue sources to lag previous years due to COVID-19 (LGA, Rental Licenses, Compost Site, etc.).

Obviously, we are very early in the process with a lot of unknowns. Staff would like your initial thoughts as to a levy increase target that you feel is reasonable for 2021 to help guide us in the budget preparation process.

SOURCE OF FUNDS: N/A
**Agenda Item:** Extend Communications Support Contract with AE2S

**Desired Meeting Outcomes:**
Discuss extending the Contract for Communications Support with AE2S

**Overview:**
The City Council approved a contract for Communications Support with AE2S in December of 2018 to assist with and enhance the City’s communications and engagement with the community. The contract amount was for $43,932.

AE2S has proven to be a valuable asset and resource for communications support. The current contract exhausted approved expenditures at the end of April 2020 largely due to the Library engagement process. AE2S has provided a new proposal for an extension of services. They have updated the scope to focus on support services for communications, engagement, and design for City needs.

The new contract proposes to render professional services on an hourly basis, not to exceed $19,513 without written authorization from the City. The new contract would begin on the date approved and go for 12 months.

**Budgetary Implications:**
Please note the City does not have funds budgeted in 2020 for additional contractual communication services.
April 27, 2020

Ms. Shelly Anderson  
City of South St. Paul  
125 3rd Ave. N.  
South St. Paul, MN 55075

RE: Letter Proposal/Contract for Communications Support

Dear Shelly:

The City of South St. Paul is continuing to enhance its communications and engagement with the community and we are excited for the opportunity to support you in this endeavor. AE2S Communications is pleased to provide communication expertise, strategic social media services, and content and graphic design support. To this end, we propose to provide the following scope of services:

**Scope of Services**

AE2S Communications (AE2S) proposes to support to the City of South St. Paul (CLIENT) with their marketing and communications efforts. This Agreement sets forth the terms and conditions under which the CLIENT and AE2S shall be governed regarding the Assignment.

**Scope:**

- General communications consulting and strategy.  
  - This includes overall communications strategies, along with specific project strategies. An example of project specific communications strategies includes construction.
- Monthly content and schedule planning for social media platform(s) – currently Facebook.  
  - Post and graphic development. Approximately two to three posts per week.  
  - Post boosts dependent on communication goals.
- Social Media Platform management including posting, monitoring, and engagement when appropriate.
- Content development and design for projects, such as the State of the City.
- Update Communications Plan elements, as needed.
- Public education and engagement, as needed.

**Deliverables:**

- Project social media campaigns  
- Monthly Schedule of posts  
- Post content (graphics, text, video, and/or animation)  
- Content and graphics as needed  
- Assistance with communications, education, and engagement, as needed.

*All templates, content, and graphics developed will be the property of the City and will be provided digitally through a dropbox or other digital storage platform.
Fees

AE2S proposes to render professional services under this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B not to exceed $19,513 without written authorization from CLIENT, plus reimbursement for all project related expenses.

<table>
<thead>
<tr>
<th>Task 1: Communications Support</th>
<th>Andrea Boe</th>
<th>Heather Syverson</th>
<th>Nicole Gaustad</th>
<th>Taylor Corbett</th>
<th>Budget Hours</th>
<th>Budget Labor Costs</th>
<th>General Expenses Budgeted</th>
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| Task 2: Social Media               |            |                  |               |               |              |                  |                         |                        |
| 2.1 Client Communications/Meetings/Review | 2          | 2                | 3             | 7             |              | $ 951            |                          | $ 951                  |
| 2.2 Monthly Social Media Plan      | 1          | 2                | 6             | 9             | $ 1,080      |                  |                          | $ 1,080                |
| 2.3 Post Development (graphics and text) | 1          | 4                | 24            | 29            | $ 3,252      |                  |                          | $ 3,252                |
| 2.4 Monitoring and Engagement      | 1          | 12               | 13            |               |              | $ 1,476          |                          | $ 1,476                |
| 2.5 Boosting and Analytics         | 4          | 4                | 4             |               |              | $ 428            |                          | $ 120                  |
| TOTAL FOR TASK 2                   | 5          | 0                | 8             | 49            | 62           | $ 7,187          |                          | $ 548                  |

TOTAL PROJECT HOURS/EXPENSES          | 28         | 13               | 36            | 70            | 147          | $ 18,893         | $ 620                    | $ 19,513               |

Additional Services

Services resulting from significant changes in the general scope, extent, or character of the Assignment are not included as a part of the general Scope of Services. If authorized in writing by the CLIENT, AE2S will provide services beyond the scope of this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B.

CLIENT’S Responsibilities

CLIENT shall do the following in a timely manner, so as not to delay the services of AE2S:

1. Designate a person to act as CLIENT’s representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define CLIENT’s policies and decisions with respect to services for the Assignment

2. Provide relevant information and content regarding requirements for the Assignment. AE2S shall be entitled to use and rely upon all information provided by CLIENT or others in performing AE2S’s services under this Agreement.
3. CLIENT shall, so long as AE2S is not in default, promptly pay AE2S for such professional services as have been performed satisfactorily hereunder in accordance with the fee schedule set forth herein. CLIENT shall bear all costs incident to compliance with its responsibilities pursuant to this section.

**Standard Terms and Conditions**

Standard terms and conditions of this Agreement between CLIENT and AE2S are specified in Exhibit A.

**Performance Schedule**

The timetable and deliverables will be developed and accepted between the CLIENT and AE2S upon the commencement of the project. The scope presented in this proposal covers a 12 month period.

**Contract Documents**

The Contract Documents consist of the following:

1. This Agreement;
2. The attached Terms and Conditions;
3. All other attached Exhibits; and
4. Any duly executed amendments.

There are no Contract Documents other than those listed above.

If this Agreement sets forth your understanding of our agreement, including the scope of work desired, fees, terms, and conditions, please sign both this original and the enclosed copy in the space provided. Please retain the original for your files and return the copy to AE2S. Thank you for the opportunity to assist in this project and we look forward to working with you.

Sincerely,

Andrea Boe
AE2S Communications Practice Leader

Aaron Volmer, PE
Operations Manager

CLIENT

Accepted this _____ day of __________________________, 2020

By: _________________________________
The Agreement is supplemented to include the following terms and conditions:

1. TERM. This Agreement shall commence on the Effective Date.

2. SCOPE OF SERVICES
2.1.1 CONSULTANT will devote the required amount of time necessary to perform the Services for CLIENT as stated herein. CONSULTANT will have discretion in selecting the dates and times it performs the Services giving due regard to the requirements of the project and schedule of CLIENT.

2.1.2 CLIENT will provide CONSULTANT with materials and information necessary to perform the scope of services proposed.

2.1.3 The relationship between CLIENT and CONSULTANT created by this Agreement is that of independent contractor, and CONSULTANT is not and shall not be deemed to be employee of CLIENT for any purpose.

3. INVOICES AND PAYMENTS. CONSULTANT will invoice CLIENT for time and reimbursable expenses monthly. Payments to CONSULTANT will be made within 30 days of CLIENT’s receipt of an invoice documenting the services performed by CONSULTANT. If CLIENT fails to make any payment due AE2S for services and expenses within 30 days, the amounts due AE2S will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, AE2S may, after giving seven days written notice to CLIENT, suspend services under this Agreement until AE2S has been paid in full all amounts due for services, expenses, and other related charges.

4. TERMINATION
4.1 If, for any reason, either party fails to fulfill in a timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, the first party shall thereupon have the right to terminate the Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. This Agreement may be terminated by either party (“the Terminating Party”) upon a breach by the other party (“the Breaching Party”) of any representation or obligation imposed hereby, provided that Terminating Party has given written notice of the breach to the Breaching Party and such breach has not been cured within ten (10) days of the date of such notice.

4.2 Either party may terminate this Agreement at any time without cause by giving at least 30 days’ notice in writing to the other party.

4.3 If the Agreement is terminated as provided herein, CONSULTANT will be paid for the time provided and expenses incurred up to the termination date.

5. STANDARD OF CARE. CONSULTANT shall exercise the same degree of care, skill, and diligence in the performance of the Services as is provided by a professional of like experience, knowledge and resources, under similar circumstances.

6. EXCLUSION OR SPECIAL INCIDENTAL, INDIRECT, AND CONSEQUENTIAL DAMAGES. To the fullest extent permitted by law, notwithstanding any other provision in the Agreement, AE2S and AE2S’s officers, directors, partners, employees, agents, and Consultants, or any of them, shall not be liable to CLIENT or anyone claiming by, through, or under CLIENT for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project, Task Order, or this Agreement, from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract or warranties, express or implied, of AE2S or AE2S’s officers, directors, partners, employees, agents, or AE2S’s Consultants, or any of them.

7. LIMIT OF LIABILITY. To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of AE2S and AE2S’s officers, directors, partners, employees, agents, and AE2S’s Consultants, and any of them, to CLIENT and anyone claiming by, through, or under CLIENT for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty express or implied of AE2S or AE2S’s officers, directors, partners, employees, agents, or AE2S’s Consultants, or any of them, shall not exceed total compensation received by AE2S as part of this agreement.

8. CONFIDENTIALITY. All of reports, information, and data, prepared or assembled by CONSULTANT under this Agreement are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of CLIENT.

9. COPYRIGHT. No printed or digitally designed documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT.

10. COMPLETE AGREEMENT. This Agreement with its exhibit, attached, constitutes the complete agreement and sets
forth the entire understanding and agreement of the parties as to the subject matter of this Agreement and supersedes all prior discussions and understandings in respect to the subject of this Agreement, whether written or oral.

11. MODIFICATION. No modification, termination, or attempted waiver of this Agreement, or any provision thereof, shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.

12. BINDING EFFECT. This Agreement shall be binding on, and shall inure to the benefit of the parties and their respective successors in interest.

13. NOTICES. All notices given under this Agreement shall be in writing, addressed to the parties as set forth on page 1.

14. GOVERNING LAW. This Agreement shall be governed by the laws of the State of North Dakota.

15. EXECUTED IN COUNTERPARTS. This Agreement may be executed in counterparts, each of which together will constitute one and the same instrument. Delivery of an executed counterpart of this Agreement shall constitute effective delivery of this Agreement. Each Party agrees that the delivery of the Agreement by facsimile or electronic mail shall have the same force and effect as delivery of original signature and that each Party may use such facsimile or electronic mail signatures as evidence of the execution and delivery of the Agreement by the Parties to the same extent that an original signature could be used.
### ADVANCED ENGINEERING AND ENVIRONMENTAL SERVICES, INC.
#### 2020 HOURLY FEE AND EXPENSE SCHEDULE

**Labor Rates***

<table>
<thead>
<tr>
<th>Role</th>
<th>Rate</th>
</tr>
</thead>
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| Technical Expert III          | Negotiable
ADVANCED ENGINEERING AND ENVIRONMENTAL SERVICES, INC.
2020 HOURLY FEE AND EXPENSE SCHEDULE

Reimbursable Expense Rates

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<td>UAS - Photo/Video Grade</td>
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<td>Out of Pocket Expenses***</td>
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<td>Project Specific Equipment</td>
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** Includes laboratory testing, architectural and engineering consultants, surveying, etc.

*** Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

These rates are subject to adjustment each year on January 1.

* Position titles are for labor rate grade purposes only.
AGENDA ITEM: 121 Hardman Court Development Agreement (AVM Construction)

DESIRED OUTCOMES:
- Discuss site challenges/considerations for proposed warehouse/office development and consider alternative solutions
- Identify preferred solution

OVERVIEW:

At the May 5 meeting of the Economic Development Authority (EDA), the EDA considered and approved entering a purchase and development agreement for the acquisition and development of vacant EDA-owned property at 121 Hardman Court. The buyer, AVM Construction proposes constructing an approximately 21,000 square foot office-warehouse building that would house their construction company, AVM Construction, in approximately 1/3 of the building. In addition, the developer proposes offering the balance of the building for additional light industrial tenants.

The Developer has submitted application materials for the City’s Plan Commission, and the project will be considered at a June 3 public hearing. As a component of their submittal, it has been determined that the existing stormwater pond (on the west edge of the site, straddling the property line) will require modification to meet the City’s current stormwater standards. Unfortunately, when the site was initially platted and the ponds were initially installed, the City utilized a different stormwater standard in the design and construction of the ponds. Unless the EDA would prefer to market these properties exclusively for office-oriented users, it is highly likely that to accommodate additional industrial development (similar in character/layout to the Cobra Transportation property at 235 Hardman Avenue South), the existing stormwater pond will need to be expand in size to accommodate increased capacity and thereby meet the current stormwater management standards.

The Developer is willing to make the needed modifications to “right-size” the pond to accommodate industrial development at both 121 Hardman Avenue Development AND 285 Hardman Avenue (which will remain in EDA ownership). However, to do so, the project will require additional earth work and modification to the existing pond easement – scope items that were not apparent at the time of the initial offer to purchase. Thus, the Developer has taken the position that for the project to move forward, the purchase price will need to be decreased.

SUMMARY OF POTENTIAL RESPONSE OPTIONS:

A. Consider Price Concession equal to pond expansion costs
   - AVM would redesign the pond to accommodate both sites and meet City approval standards
- AVM and City to identify reasonable price to conduct the work
- Amendment to purchase agreement would be approved to reflect a reduced purchase price

**B. Decrease building size**
- Keep pond as-is
- Allow sale of property for a smaller building that would not meet City’s FAR standard – variance would be required
- Would probably constitute a decrease in size of about 50%; area would need to be green space (perVIOUS)
- Tax base implications

**C. Decrease impervious area (exterior storage area)**
- Keep pond as-is
- Require significant downsizing of exterior storage area (would need to calculate, but project engineer speculates virtually all of exterior area would be eliminated)
- Likely makes project infeasible for this developer/user

**D. Combination of B & C**

**E. Send all of 121 Hardman Court’s Drainage to the pond**
- Means that 285 Hardman would need to install its own drainage solution at time of development
- Subject to design engineering – pond may still need to be expanded for 121 to meet standards

Staff suggests that the ponds were designed for a different characteristic of development, and with the change in stormwater standards it is likely that any industrial development will require modification of this feature. It makes sense to leverage the planned site work for the AVM development to “right-size” the pond. It is not entirely out-of-the-ordinary for the EDA to consider sales price concessions upon discovery of previously unknown site challenges (the Rihm-Kenworth is the most recent example), and staff is comfortable recommending Option A, to consider a price reduction equivalent to the cost to expand the stormwater pond.

**FUNDING SOURCES AND OTHER FISCAL CONSIDERATIONS:**
The Development Agreement provides a purchase price of $210,000, minus ½ of any environmental costs over $20,000. We feel it is premature to speculate as to the potential cost reduction that would be needed to equal the expanded ponding costs.

The EDA-owned property is currently exempt from property taxes, and has been for at least 25 years. Using existing comparable development as a barometer, it is estimated that the office/warehouse development of about 21,000 square feet would generate over $40,000 per year in total property tax payments beginning in Pay 2022 (assuming 2020 completion).

**ATTACHMENTS:**
Orientation Map
Concept Site Plan w/ Expanded Stormwater Area
AGENDA ITEM: Discuss Draft COVID-19 Re-Opening Plan

DESIRED MEETING OUTCOMES: DISCUSS THE DRAFT COVID-19 RE-OPENING PLAN WITH SPECIAL EMPHASIS ON PUBLIC MEETINGS.

OVERVIEW:

Staff has prepared a draft re-opening plan relative to the COVID-19 pandemic. This plan was modeled after a document prepared by the City of Roseville that was the most comprehensive example we encountered in our research of various examples. The Management Team has participated in the review of this document.

It should be understood that this plan would need to be a living document that will need modifications as we progress through this pandemic event and new information/direction becomes available. You will also note that our draft minimized the use of specific target dates; it is focused on the “phases” associated with the State of Minnesota’s “Stay Safe” guidelines that does include target dates.

While the Council is free to comment on any aspects of the draft plan, we would like specific feedback on the Public Meetings components of the document. (That information can be found on pages 5 – 7, and on pages 16 – 17.) For example, Phase II commencing June 1st allows public meetings with attendance of 50 or less, staff feels we can’t ensure social distancing in a Council meeting setting; especially with the unpredictability of the number of members of the public that may want to attend. We would suggest that virtual meetings provide the highest degree of safety. However, if the Council wants to be back in the Chambers, a modified approach would be to have the public attend virtually. Full WebEx access (audio/video) could be allowed to allow better interaction than exists through a phone connection.

The availability of personal protective equipment is another factor to discuss relative to Council meetings. Staff has devised a plan to place shields between Council seating areas to ensure social distancing can be maintained. However, we also recognized that barriers might not be desirable from the Council’s standpoint.

Please review the document and be prepared to discuss your concerns at Tuesday’s work session. You are also welcome to discuss them with me prior to the meeting if you want addition explanation or to provide staff a chance to be prepared to answer questions that may arise.

SOURCE OF FUNDS:

N/A
COVID-19 PREPAREDNESS PLAN

City of South St. Paul

May 18, 2020
City of South St. Paul COVID-19 Preparedness Plan

The City of South St. Paul is committed to providing a safe and healthy workplace for all our workers. To ensure that, we have developed the following Preparedness Plan in response to the COVID-19 pandemic. In creating the plan, the city utilized five working groups to provide input on parts of the re-opening plan. These working groups of leadership staff and other city employees are as follows:

- Facilities
- Staffing
- Protective Supplies
- Programs & Events
- Public Meetings

Managers and workers are all responsible for implementing this plan. Our goal is to mitigate the potential for transmission of COVID-19 in our workplaces, and that requires full cooperation among workers and management. Only through this cooperative effort can we establish and maintain the safety and health of our workers and workplaces.

Our workers are our most important assets. We care about safety and health and keeping our employees working. Our Preparedness Plan follows Centers for Disease Control and Prevention (CDC) and Minnesota Department of Health (MDH) guidelines and federal OSHA standards related to COVID-19.

In addition, there are several resources at the end of this document including policies, and procedures that have been developed in response to the COVID-19 pandemic that provide further details and outline the City of South St. Paul Business Plan for RE-Opening City Facilities.
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Thresholds for Re-Opening City Facilities

The Governor has provided the graphic shown below to depict different “phases” on reopening due to COVID-19. The City of South St. Paul has aligned its reopening plan with different milestones depicted on the dials. Due to the ever-changing nature of the COVID-19 pandemic, the following PHASES should be considered guidelines rather than hard and fast rules. The City will continue to take its guidance from the Centers for Disease Control (CDC) and Minnesota Department of Health (MDH) when implementing safety precautions and reopening plans. The thresholds listed below may change as more information or guidance is provided. Many of the details in this Preparedness Plan are aligned with the different phases.

![Safely adjusting the dials graphic]

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<th>SOCIAL SETTINGS</th>
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<td>Distance Learning</td>
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<td>Office and Industrial</td>
<td>Stay at Home</td>
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<td>Critical Services</td>
<td>Bar, Restaurants</td>
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<td>Highly Predictable and Smaller-sized Settings</td>
<td>Large Sporting Venues, Concerts</td>
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<td>Less Predictable and Larger-sized Settings</td>
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<tr>
<td>Highly Predictable and Smaller-sized Settings</td>
<td>Less Predictable and Larger-sized Settings</td>
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**SAFE PRACTICES**
- Wash your hands often
- Get tested if experiencing symptoms
- Maintain social distance
- Wear a mask
- Stay home when able

**COVID-19 RESPONSE**
- Test symptomatic individuals
- Isolate positive cases and contact trace
- Protect those at heightened risk
- Build needed hospital capacity
- Procure critical care supplies
# COVID-19 Preparedness Plan

For full list visit: [https://mn.gov/covid19/for-minnesotans/stay-safe-mn/stay-safe-plan.jsp](https://mn.gov/covid19/for-minnesotans/stay-safe-mn/stay-safe-plan.jsp)

## STAY SAFE MN

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<th>Stay Safe MN Phase I May 18 – June 1</th>
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<tr>
<td><strong>Non-critical Businesses (non-customer facing)</strong></td>
<td>![✓] Open (must telework if you can, must have COVID-19 preparedness plan)</td>
<td>![✓] Open (must telework if you can, must have COVID-19 preparedness plan)</td>
<td>![✓] Open (must telework if you can, must have COVID-19 preparedness plan)</td>
<td>![✓] Open (must telework if you can, must have COVID-19 preparedness plan)</td>
<td>![✓] Open (must telework if you can, must have COVID-19 preparedness plan)</td>
</tr>
</tbody>
</table>
Phase 0

The dial on Workplace Settings is set to **Critical Services** and there is a **Stay at Home** order in place.

**Facilities:** All city buildings are closed to the public. Additional procedures for cleaning are implemented.

**Employees:** Essential and Critical Employees are working. Most employees are required to work remotely. Those whose job tasks cannot be performed remotely may be required to work in their normal setting during this period with additional precautions. Employees whose tasks are able to be completed remotely shall work remotely unless voluntarily returning with the approval of the Department Head and City Administrator.

**Services:** Critical and essential services continue. Alternate service delivery models are established to allow continued services remotely.

**Programs:** Non-essential programs are cancelled.

**Volunteers:** Volunteers are not being utilized.

**Meetings:** Work-related meetings are conducted virtually. City Council meetings and select City Commission meetings will be conducted virtually. Any other public meeting that is not required under City Code or by State Statute, shall be postponed.

PHASE I

The dial on ‘Social Settings’ reaches **Small Family Gatherings**.

**Facilities:** Some city facilities may be open to the public for services in a limited capacity or in line with CDC guidelines (i.e. City Hall, Library, Doug Woog Arena, and Fleming Field). Additional requirements for cleaning, signage, and workspaces will be implemented.

**Employees:** Essential and Critical Employees are working. Most employees continue to work remotely. Some employees are allowed to return to work in a limited capacity when the dial on the ‘Social Settings’ reaches **Small Family Gatherings**. This would permit a limited number of employees to be in building(s) at one time utilizing infection prevention measures and social distancing & CDC guidelines to limit/prevent the spread of COVID-19.

**Services:** Critical and essential services continue. Alternate service delivery models continue, although there may be additional review or enhancement of service delivery.

**Programs:** Some programming may resume with accommodations in line with CDC guidelines.

**Volunteers:** Some volunteers may resume in situations where social distancing and CDC guidelines can achieve a safe environment.

**Meetings:** Work-related meetings may be conducted virtually or in settings where CDC guidelines can be followed. **City Council meetings and select City Commission meetings are conducted virtually.** Other public meetings, such as open house meetings and neighborhood meetings may be conducted if it is reasonably expected that attendance would consist of 10 persons or less. A person shall be assigned to monitor attendance numbers. Public meetings expected to be attended by 10 persons or more shall be conducted virtually, in multiple meetings of 10 persons or less, or shall be postponed until the City’s reopening has entered Phase II. **Precautions/guidelines** shall be taken as outlined further in this plan.
PHASE II
The dial on ‘Social Settings’ reaches Places of Worship.

Facilities: Additional city facilities may be open to the public for services in a limited capacity or in line with CDC guidelines. Requirements for cleaning, signage, and workspaces will continue with additional signage for public and social distancing and additional protocols for cleaning high-touch public areas.

Employees: Essential and Critical Employees are working. Some employees continue to work remotely. Additional employees may work in city facilities and deal directly with the public in a limited capacity and in line with CDC guidelines.

Services: Critical and essential services continue. In-person services begin to resume with specific guidelines or precautions.

Programs: Some programming may resume with accommodations in line with CDC guidelines.

Volunteers: Volunteers may resume in situations where social distancing and CDC guidelines can achieve a safe environment.

Meetings: Work-related meetings may be conducted virtually or in settings where CDC guidelines can be followed. City Council and City Commission meetings can be held in-person subject to social distancing requirements and attendance limits. All public meetings that are expected to generate attendance of up to 50 persons or less may resume. A person shall be assigned to monitor attendance numbers. If attendance is expected to generate more than 50 persons, the meeting shall be conducted virtually, in multiple meetings of up to 50 persons or less, or shall be postponed until the City’s reopening has entered Phase III. Precautions/guidelines shall be taken as outlined further in this plan.

PHASE III
The dial on the ‘Social Settings’ reaches Sporting Venues, Concerts and/or In-Person school learning.

There may be additional precautions as we enter this phase, however in a general term this will be more of a return-to-normal operation. Programs and services may be fully operational, albeit possibly under a new model of operation.

Facilities: Additional (all) city facilities may be open to the public for services in line with CDC guidelines (i.e. City Hall). Requirements for cleaning, signage, and workspaces will continue with additional signage for public and social distancing and additional protocols for cleaning high-touch areas.

Employees: Essential and Critical Employees are working. Some employees continue to work remotely. Most employees will work in city facilities in line with CDC guidelines.

Services: Critical and essential services continue. In-person services begin to resume.

Programs: Most programming may resume with accommodations in line with CDC guidelines.

Volunteers: Most volunteers may resume in situations where social distancing and CDC guidelines can achieve a safe environment.

Meetings: Work-related meetings and public meetings are conducted using safe and healthy practices. Public meetings may resume without restrictions on the number of attendees. Modifications to some of the noted precautions/guidelines as outlined further in this plan may still be necessary to reflect society’s new normal.
Screening for employees exhibiting signs and symptoms of COVID-19 (PHASES I, II, III)

As employees are phased back into working at their traditional facilities, the City has provided guidance on how to screen for employees who may be exhibiting signs or symptoms of COVID-19. Employees have been informed of and encouraged to self-monitor for signs and symptoms of COVID-19. The following policies and procedures are being implemented to assess employees’ health status prior to entering the workplace and for employees to report when they are sick or experiencing symptoms.

Employees are expected to monitor their health conditions prior to leaving their home for work and follow the THRESHOLD CHART as provided in the Employee Guidance on COVID-19 related Situations for when to stay home from work. Employees are responsible for notifying their Supervisor if they are experiencing symptoms and are unable to work, or if they must leave work subject to this policy. Supervisors are expected to be familiar with the signs and symptoms of COVID-19 and the procedures to follow if an employee is exhibiting signs or symptoms in the workplace.

PROCEDURES:

- **BEFORE LEAVING FOR WORK:** Employees are expected to assess their health condition prior to leaving their home for work if they are not working remotely. This includes a self-assessment of the following symptoms: temperature, cough, sore throat, respiratory issues, body aches, fatigue, headache, and/or diarrhea that cannot be explained by any other medical issue the employee is experiencing.

- **UPON ARRIVAL AT WORK:** Employees may be directed to designated one-way entrances and exits in and out of facilities to support the 6-foot physical distancing. Employees may be required to complete a health screening questionnaire depending upon current health guidelines and may participate in temperature screenings. If after completing the screening an employee is showing symptoms of COVID-19, they are to report to their supervisor and Human Resources that they must leave work. Employees may qualify for Families First Coronavirus Response Act (FFCRA) financial benefits and Human Resources will assist employees with determining eligibility via email.

- **IF SYMPTOMS APPEAR DURING THE WORKDAY:** An employee should immediately notify their supervisor that they must leave work, gather their things and proceed to the nearest exit from their workstation. Supervisors should follow the procedures outlined in the Supervisor Guidance for Exposure to Presumptive or Confirmed Cases. Employees may qualify for Families First Act financial benefits and human resources will assist employees with determining eligibility via email.

- **IF AN EMPLOYEE CANNOT IMMEDIATELY LEAVE WORK:** For example, if someone gave them a ride to work, the employee should gather their things and self-isolate in the following locations based on their work location:
  - **City Hall:** Employees should take the nearest exit from their work stations and **walk outside the building** to the benches outside of the lower level Employee entrance. In the event of inclement weather (such as rain, high winds, colder temperatures) ill employees can self-isolate in the single room near the lunchroom bathrooms of city hall. This will reduce contact and contamination as much as possible of other employees and office areas. The employee should avoid touching any unnecessary surfaces, chairs, handles, or other items while waiting in the...
room. If an employee self-isolates in the single room, they must notify Human Resources immediately so the room can be disinfected before being used again.

- Doug Woog Arena:
- Library: Employees should use the back employee entrance to exit the building and wait for transportation on the bench situated by 3rd Ave. N. In the event of inclement weather, ill employees can self-isolate in the library conference room by the back employee entrance to reduce contact with other employees and preclude further contamination of the workplace. The employee should avoid touching any unnecessary surfaces, chairs, handles, or other items while waiting in the room. The room will then be disinfected once the employee leaves.
- Service Center
- Central Square Community Center
- Fleming Field
Leave Policies for COVID-19 Related Health Issues (PHASES 0, I, II, III)

Pandemic Leave

The City of South St. Paul has benefit leave that promote employees staying at home when they are sick, when household members are sick, or when required by a health care provider to isolate or quarantine themselves or a member of their household. In addition, the federal government has passed the Families First Coronavirus Response Act (FFCRA) which may provide full or partial wages depending on the reason for the leave and employee eligibility.

Accommodations

The City of South St. Paul will make workplace accommodations to ensure social distancing between employees who are reporting to the workplace, when possible (i.e., plexiglass barriers; 6-feet distancing). For non-essential/critical employees, other accommodations may include remote/telework or a hybrid of office/telework as long as work is available and department needs are met. In some cases, employees may also request to work flexible hours with the permission of their supervisor to avoid contact with other staff.

Exposure

The City of South St. Paul has also implemented a procedure for informing employees if they have been exposed to a person with COVID-19 at their workplace and requiring them to quarantine for the required amount of time. The City of South St. Paul has a general duty to provide a safe workplace under federal OSHA laws. The CDC advises that if an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.

As part of that, the City of South St. Paul will try to determine which, if any, employees were exposed to COVID-19 first through investigating the employee’s schedule and work location to determine with whom the employee interacted. The City may also request an employee provide a list of other employees with whom they had close contact with during the last 14 days if they are confirmed to have COVID-19.

Below is an outline of the Notification Criteria the City will use to notify other employees of potential exposure to COVID-19.

Notification will occur under these circumstances:

1. Employee is symptomatic of COVID-19 and/or has been asked to self-quarantine by a health care provider.
2. Employee has tested positive or been diagnosed with COVID-19 by health care provider.
3. Employee has been asked to self-quarantine due to someone in their household testing positive for COVID-19.

Notification will NOT occur if:

1. Employee has been exposed to someone who has tested positive, or been diagnosed with COVID-19 (outside of their household) and does not have symptoms.
2. Employee has been exposed to a potential positive test case of COVID-19.

Procedures Supervisors should follow to notify Human Resources and the City Manager are outlined in the Supervisor Guidance for Exposure to Presumptive or Confirmed Cases.

**Privacy**

In addition, a policy has been implemented and communicated to all Supervisors and Managers to protect the privacy of employees’ health status and health information. Several laws address the privacy of medical information. To assure compliance with these laws, and to respect employee privacy, supervisors **MAY NOT** reveal the name of the person who has reported COVID-19 symptoms or tested positive/negative other than to those who absolutely need to know. If an employee would like others to be made aware of their situation, they should ask a coworker to share the information and not a supervisor or manager. Supervisors and managers should not share this information under any circumstances, even if it is widely known among a work group(s).
Safe Work Environments

Cleaning Procedures

PHASES 0 and I

Cleaning Schedule:

Every evening the cleaning contractor will disinfect all high touch areas which include and but are not limited to: door handles, hand railings, key pads, elevator controls, drinking fountains, vending machines, bathroom fixtures, manual dispensers, microwave key pads and handles, mail boxes, common area furniture, common area counters, conference room furniture, conference room remote controls, and telephones. Normal cleaning operations (mopping floors, emptying garbage/recycling, etc.) will occur as usual.

Once a week the contractor will vacuum in the evening to allow dust from vacuuming to resettle prior to staff arriving.

Staff will be required to wipe down public surfaces once or twice or more per day. If a conference room is used, a staff member will be assigned to wipe down (disinfect) the surfaces (table and chair surfaces) before and after meeting. If the any A/V is used those items (keyboards/mice/remote) should also be wiped down.

The City will provide departments with cleaning supplies (based on availability). Each department will develop its own cleaning policies, procedures, spaces, and timing based on department needs.

Departments should contact the Police Department for replacement of disinfectant materials and products.

Phase (II, III)

Cleaning Schedule:

Every evening, the cleaning contractor will disinfect all high touch areas which include and but are not limited to: door handles, hand railings, key pads, elevator controls, drinking fountains, vending machines, bathroom fixtures, manual dispensers, microwave key pads and handles, mail boxes, common area furniture, common area counters, conference room furniture, conference room remote controls, and telephones. Normal cleaning operations (mopping floors, emptying garbage/recycling, etc.) will occur as usual. High touch areas will be disinfected at least once more during the day by the cleaning contractor. Phase II and III will require additional time be spent on public counters, sneeze shields, chairs in public spaces, etc.

Once a week the contractor will vacuum in the evening to allow dust from vacuuming to resettle prior to staff arriving.

Staff will be required to wipe down public surfaces once or twice or more per day. If a conference room is used, a staff member will be assigned to wipe down (disinfect) the surfaces (table and chair surfaces) before and after meeting. If the any A/V is used those items (keyboards/mice/remote) should also be wiped down.
Staff will be required to wipe down public surfaces once or twice or more per day. **For Phases II and III, staff should wipe down counters and sneeze shields after every public interaction at the counter.**

If a conference room is used a staff member will be assigned to wipe down (disinfect) the surfaces (table and chair surfaces) before and after each meeting. If any A/V is used those items (keyboards/mice/remote) should also be wiped down.

**Handwashing**

Basic infection prevention measures are being implemented at our workplaces at all times. Employees are encouraged to wash their hands for at least 20 seconds with soap and water frequently throughout the day, but especially at the beginning and end of their shift, prior to any mealtimes and after using the toilet. Additional signage will be posted in restrooms during PHASES 0-III as reminders. Some facilities will have hand-sanitizer dispensers (that use sanitizers of greater than 60% alcohol) that can be used for hand hygiene in place of soap and water for visitors as they enter and exit.

Restrooms are readily available in city buildings and are stocked and maintained by custodial staff. Restrooms are cleaned and sanitized based on the procedures outlined in the cleaning schedule. Employees may leave their work stations at any time to wash their hands. Based on availability, the City will provide employees with a small bottle of hand sanitizer for use at their work stations and are encouraged to use it each time the enter and exit their work station.

**Respiratory etiquette: Cover your cough or sneeze**

Employees and visitors are being instructed to cover their mouth and nose with their sleeve or a tissue when coughing or sneezing and to avoid touching their face, in particular their mouth, nose and eyes, with their hands. They should dispose of tissues in the trash and wash or sanitize their hands immediately afterward. Respiratory etiquette will be demonstrated on posters and supported by making tissues and trash receptacles available to all workers and visitors. Employees will be reminded of this through this plan as well as through email and supervisor updates to staff.

**Social Distancing & other Facility Controls**

Social distancing is being implemented in the workplace through the following:

**Staffing**

Each department has developed a Staff Work plan that allows for remote/telework and alternative service delivery, when possible. Employees that are able to work remotely are, and those whose job duties do not allow remote/telework are following appropriate CDC guidelines. The City of South St. Paul has developed a phased-approach with specific safety procedures, and protocols in order to provide a safe working environment for employees, volunteers, contractors and customers. This plan allows for staggered shifts, remote/telework and flexible shifts to ensure social distancing and to limit the spread of the virus.
Work Spaces:

Each department will be individually surveyed to determine which current workstations meet separation/social distancing guidelines. Offices are all assumed to be acceptable unless shared. Cubicles with dividers at least five (5) feet in height are assumed to be acceptable to have adjacent workstations occupied. If cubicle dividers are less than five feet in height (or are not present) first consideration should be given to relocate staff to other areas which may require sharing space with staggered staffing levels if the employees must report to work or sneeze guards will be installed to provide a barrier between workstations. Employees working in a shared space are asked to clean their workstation at the start and end of their shift.

Public Counters:

Sneeze shields shall be installed on all public counters.

Shared Spaces:

Shared spaces include the mail room, lunch room, storage rooms, conference rooms, bathrooms, elevator, general office areas, lobby and hallway areas. The City has implemented a Facial Covering policy that provides guidance to employees when in shared spaces. In addition, every effort should be made to maintain social distancing guidelines at all times.

Lunchrooms: Employees will be directed to only have one person per table. Tables should be wiped down before and after use by the employee who utilized the table.

Refrigerators: Employees are encouraged to bring in a small cooler or other device to keep food cool until lunch. If the refrigerator must be used all food must be covered and containers shall not touch. All containers should be brought home at the end of each day.

Conference Rooms: Each conference room will be reviewed and chairs will be removed to indicate a capacity per conference room for meetings following social distancing guidelines. Per other guidelines, all meetings should be virtual if at all possible. Even if multiple attendees are in the building. If a conference room is used, a staff member will be assigned to wipe down (disinfect) the surfaces (table and chair surfaces) before and after each meeting. If any A/V is used those items (keyboards/mice/remote) should also be wiped down.

Signage:

Signs to promote healthy hygiene habits, as well as communicate that people with symptoms should not enter city facilities will be provided in multiple languages. Signs will include a phone number for people to call if they need assistance and cannot enter. Floor signs will be used to indicate appropriate standing spots while waiting in line for help at counters.
**Protective Supplies**

**Facial Coverings**

Each employee will be provided with a cloth mask, and is responsible for laundering of mask. Instructions / training on donning / doffing and laundering of cloth masks will be provided to employees. Each department will also be provided with a supply of disposable masks, for use as needed. Instructions / training on donning / doffing and disposable of masks will be provided to employees.

Departments should contact the Police Department for replacement of both mask types.

**Other Protective Equipment**

**PHASES 0- I- & II**

Some situations will require the need for employees to utilize disposable gloves. These situations will be determined department by department task by task. Gloves will be provided and instructions / training on donning and doffing of the gloves will be provided to employees.

Departments should contact the Police Department for replacement of disposable gloves.

**PHASE III**

All glove recommendations are lifted. Employees will utilize and determine safe “return-to normal operations”.
Public Meetings

Each phase, as outlined above, will need to ensure compliance with the following additional precautions/guidelines, which are described below:

<table>
<thead>
<tr>
<th>Precautions/Guidelines</th>
<th>Phase 0</th>
<th>Phase I</th>
<th>Phase II</th>
<th>Phase III</th>
</tr>
</thead>
<tbody>
<tr>
<td>Room Set-Up</td>
<td>n/a</td>
<td>X</td>
<td>X</td>
<td>n/a</td>
</tr>
<tr>
<td>Meeting Signage</td>
<td>n/a</td>
<td>X</td>
<td>X</td>
<td>n/a</td>
</tr>
<tr>
<td>In-Person Engagement</td>
<td>n/a</td>
<td>X</td>
<td>X</td>
<td>n/a</td>
</tr>
<tr>
<td>Virtual/Online Engagement</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>n/a</td>
</tr>
<tr>
<td>Communications</td>
<td>n/a</td>
<td>X</td>
<td>X</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Room Set-Up

- Seating 6’ apart
- Sign-in sheet (name, address, phone #, email) – ability to notify in-case of outbreak
- Supplies/Cleaning*
- COVID best practices signage at door**
- Self-serve table with hand-outs
  - **Attendance monitor required (wearing face covering & gloves)**
- Ready a “waiting area” (overflow) that maintains social distancing
- Dais, table arranged to ensure social distancing
- No food or beverage to be provided/served

In-Person Engagement

- Establish an RSVP for in-person engagement on the meeting agenda (identify where comments/documents can be sent)
- Discourage handouts from attendees – send electronically
- Encourage electronic or written comments – assign person to receive electronic comments
- Face covering may be removed when verbally engaging in meeting and/or when social distancing isn’t interrupted
**Virtual/Online Engagement**

Meeting agenda will include information on who to contact if public wants to attend virtual meeting, speak/leave comments, or provide additional documentation on an agenda item

RSVP feature for in-person engagement at a public meeting

Online engagement submittal forms

Email & phone contacts based on meeting type/topic

COVID best practices**

**Communications**

Mailed/written notices for meetings (when required)

RSVP on “Public Engagement during COVID-19” webpage

Requirements for attendees (face covering, gloves)

How to engage electronically

COVID best practices** (consider multiple languages)

Include postponement and/or cancellation disclaimer (interest too high to be safe, community spread spike, etc.)

*Supplies/Cleaning*

Hand sanitizer

Tissues

Gloves

Disposable face coverings/masks (if possible)

Disinfectant spray/wipes – wipe surfaces down before and after meeting

**COVID Best Practices**

Capacity will be monitored to maintain social distancing

Stay home if you are sick (cough, fever, body aches)

Hand sanitize upon entering and exiting meeting

Wear a face covering and gloves

No touching, handshakes, high-fives

Cover your cough, sneeze

Don’t touch your face

No materials distributed unless by meeting organizer @ self-serve table

At-risk population encouraged to stay home and engage virtually/online

Over 65

Underlying medical condition

Someone in your household has tested positive for COVID-19
Appendix A – Resources

General
www.cdc.gov/coronavirus/2019-nCoV
www.health.state.mn.us/diseases/coronavirus
www.osha.gov
www.dli.mn.gov/updates

Handwashing
www.cdc.gov/handwashing/when-how-handwashing.html
www.cdc.gov/handwashing
https://youtu.be/d914EnpU4Fo

Respiratory etiquette: Cover your cough or sneeze
www.health.state.mn.us/diseases/coronavirus/prevention.html
www.cdc.gov/healthywater/hygiene/etiquette/coughing_sneezing.html

Social distancing
www.health.state.mn.us/diseases/coronavirus/businesses.html

Housekeeping
www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2

Employees exhibiting signs and symptoms of COVID-19
www.health.state.mn.us/diseases/coronavirus/basics.html

Training

www.health.state.mn.us/diseases/coronavirus/about.pdf
www.osha.gov/Publications/OSHA3990.pdf
Appendix B – City of South St. Paul COVID-19 Related Policies and Procedures

Programs and Events

Employee Guidance for COVID-19 Related Situations

Screening and Policy for Employees Exhibiting Signs and Symptoms of COVID-19

Supervisor Guidance for Exposure to Presumptive and Confirmed Cases of COVID-19

Supervisor Guidance on COVID-19 Health Issues

Facial Covering Policy

How to Properly Wear Protective Equipment

Reference Videos

City of South St. Paul Emergency Pandemic Leave Policy

Criteria to Notify Employees of Potential Exposure
Programs and Events

I. PROGRAMS

All in-person recreation programs will be cancelled or postponed through July 31, 2020.

a. Staff will continue to implement virtual opportunities when possible.

b. Staff will continue to plan and develop appropriate programs for late summer and fall programs as further guidance continues.

II. PARK FACILITIES

All recreational facilities including Park Buildings and picnic shelters will be closed during this period with the following exceptions:

a. RENTAL FACILITIES: If the state of MN permits small gathering, select rental facilities could reopen with social distancing restrictions in place.

b. OUTDOOR FACILITIES: including picnic shelters will be cancelled through June due to the unpredictability for large group gatherings.

c. ATHLETIC FIELDS: Available for use beginning 5/18/2020 for user groups of 10 or less (including coaches, parents, siblings, and guests). Games, tournaments, and spectators are not allowed.

d. Northview Pool and the Splash Pool at Lorraine Park will remain closed and will not be readied for opening this year.

III. Parks

The following is a status summary of the Parks and amenities until June 7.

a. The following will remain open with social distancing:
   i. Parks and trails
   ii. Disc Golf Course
   iii. Tennis courts
   iv. Playgrounds
   v. Community Garden Plots
   vi. Dog Park
   vii. Soccer Fields

b. The following park facilities will remain closed:
   i. Basketball and volleyball courts
   ii. All drinking fountains will remain off

c. Other
   i. Contract work may continue in parks with a social distancing plan approved by the Director of Parks and recreation.

   ii. Restrooms
      i. Select restrooms in Central Park will be opened and cleaned daily
beginning May 4.

IV. DOUG WOOG ARENA

Doug Woog Arena is tentatively planned to open on June 8th. Usage will be limited to groups of 10 or less. Policies for this limited re-opening are attached as Appendix X.

V. SOUTH ST. PAUL PUBLIC LIBRARY

All in-person library programs will be cancelled at least through the summer. A modified curbside pick-up Summer Discovery reading program for children will occur in June. Staff will continue to implement virtual opportunities when possible. A phased re-opening of the library will occur with the first phase, tentatively scheduled for early June, offering computer use by appointment only.

VI. EVENTS

• Night to Unite (August 4)
VII. STAFF

a) Administrative, Supervisory and Clerical staff will continue to work remotely as possible.

b) Regular staff who have a modified workload due to program cancelations will be offered voluntary furlough or reassigned to other necessary duties, including:
   a. Assisting departmental facilities/operations that are running to reduce reliance on seasonal staff
   b. Assisting with maintenance needs

c) Parks Maintenance Staff will be on a 40-hour workweek. Alternate scheduling will continue to reduce employee interaction. Social distancing measures and CDC guidelines currently in place will continue through this period.

d) Parks Seasonal Staff require pre-approval during this period and will only be used when essential for planning of future programs, operations of open facilities and/or park maintenance.

e) Volunteers. Use of volunteers will be evaluated by the department on a case by case basis. Any use of volunteers will require a safety plan following CDC guidelines that is approved by the Department Head or City Administrator. Police Department may continue to use volunteers (i.e., Police Reserves, etc.) as needed.

VIII. AFFILIATED ORGANIZATIONS

• Affiliated groups and organized sports leagues or practices will be evaluated along with parks and recreation activities and events. Any use will require a safety plan following CDC guidelines and a written permit approved and issued by the supervisor and Department Head.
Employee Guidance for COVID-19 Related Situations

These policies are subject to change at the discretion of the City Administrator. The guidelines outlined below are subject to CDC recommendations and guidance. Should those recommendations or guidelines change, please check the [CDC website](https://www.cdc.gov) for up to date information.

<table>
<thead>
<tr>
<th>Situation</th>
<th>Are you feeling ill or fall above thresholds from THRESHOLD CHART below</th>
<th>What should you do?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee, or member of household has tested positive for COVID-19 or been diagnosed by a health care provider.</td>
<td>Yes</td>
<td>Stay Home – if eligible, you will be paid using Federal Emergency Paid Sick Leave (for up to 80 hours). Follow <a href="https://www.cdc.gov/coronavirus/2019-ncov/exposure-prevent-hospitalization.html">CDC Quarantine guidelines</a>. Use the CDC Guidelines below to return to work.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Stay Home – If you are able to work from home the expectation is that you will work. OR, if eligible, you will be paid using Federal Emergency Paid Sick Leave (for up to 80 hours). Follow <a href="https://www.cdc.gov/coronavirus/2019-ncov/exposure-prevent-hospitalization.html">CDC Quarantine guidelines</a>. Use the CDC Guidelines below to return to work.</td>
</tr>
<tr>
<td>Employee or member of household is sick in your home with any <em>other</em> illness.</td>
<td>Yes</td>
<td>Stay Home – you will be required to use your benefit leave balances for illnesses not COVID-19 related. Use the THRESHOLD CHART below to return to work.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Connect with your Supervisor/Manager. Can you work from home? If not, you have the option to come back to work and continue using BEST PRACTICES BELOW. You will be required to use benefit leave balances if you choose to stay home.</td>
</tr>
<tr>
<td>Situation</td>
<td>Are you feeling ill or fall above thresholds from THRESHOLD CHART below</td>
<td>What should you do?</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Employee has been advised by a health care provider to self-quarantine.</td>
<td>Yes</td>
<td>Stay Home – Follow your health care provider’s advice – if eligible, you will be paid using Federal Emergency Paid Sick Leave (for up to 80 hours). Use the <a href="#">CDC Guidelines below to return to work</a>. You may be asked to provide a doctor’s note to return to work.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Stay Home – Follow your health care provider’s advice. If you are able to work from home the expectation is that you will work. If it is not possible to work from home, and if eligible, you will be paid using Federal Emergency Paid Sick Leave (for up to 80 hours). Connect with your Supervisor/Manager to have a work plan. Use the <a href="#">CDC Guidelines below to return to work</a>. You may be asked to provide a doctor’s note to return to work.</td>
</tr>
<tr>
<td>Employee has been in close contact with someone who has tested positive for COVID-19. <em>Close contact is defined as 15 minutes of close exposure.</em></td>
<td>Yes</td>
<td>Stay Home – Follow your health care provider’s advice. You may be eligible for Federal Emergency Paid Sick Leave. Use the <a href="#">CDC Guidelines below to return to work</a>.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Stay Home for 14 days and practice social distancing and monitor symptoms - Connect with your Supervisor/Manager – to determine if you are able to work remotely if not already doing so. If you are able to work from home the expectation is that you will work. If not, you may be eligible for Federal Emergency Paid Sick Leave. Use the <a href="#">Guidelines for Exposure below to return to work</a>. If you become symptomatic, notify your Supervisor.</td>
</tr>
<tr>
<td>Situation</td>
<td>Are you feeling ill or fall above thresholds from THRESHOLD CHART below</td>
<td>What should you do?</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Member of Employee’s household has been in close contact with someone who has tested positive for COVID-19. Close contact is defined as 15 minutes of close exposure.</td>
<td>Yes</td>
<td>Stay Home – Follow your health care provider’s advice. You may be eligible for Federal Emergency Paid Sick Leave. Use the CDC Guidelines below to return to work.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Stay Home for 14 days and practice social distancing and monitor symptoms - Connect with your Supervisor/Manager – to determine if you are able to work remotely if not already doing so. If you are able to work from home the expectation is that you will work. If not, you may be eligible for Federal Emergency Paid Sick Leave. Use the Guidelines for Exposure below to return to work. If you become symptomatic, notify your Supervisor.</td>
</tr>
<tr>
<td>You are at higher risk at getting very sick from this illness.</td>
<td>Yes</td>
<td>Stay Home – Follow your health care provider’s advice. You may be eligible for Federal Emergency Paid Sick Leave. Use the THRESHOLD CHART or CDC Guidelines below to return to work depending upon illness.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Connect with your Supervisor/Manager if you have concerns. If you are able to work from home or flex your time so you’re in the office during a non-typical workday, the expectation is that you will work. Connect with your Supervisor/Manager to have a work plan. Use the THRESHOLD CHART below to return to work.</td>
</tr>
<tr>
<td>Someone in your immediate household is at higher risk at getting very sick from this illness.</td>
<td>Yes</td>
<td>Stay Home – Follow your health care provider’s advice. You may be eligible for Federal Emergency Paid Sick Leave. Use the THRESHOLD CHART below to return to work.</td>
</tr>
<tr>
<td></td>
<td>No</td>
<td>Connect with your Supervisor/Manager if you have concerns. Your Supervisor/Manager may work with you to make temporary alternate work arrangements when possible and reasonable. You will be required to use benefit leave if you choose to stay home.</td>
</tr>
</tbody>
</table>

Employee Guidance on COVID-19 Situations
Thresholds Chart

Don’t Come to Work / Leave Work If You or Someone in Your Home...

- Has a temperature over 100.4° (oral) within the last 24 hours or has signs of a fever
- Has a cough
- Has shortness of breath related to other possible COVID-19 symptoms
- Has had diarrhea or thrown up within the last 24 hours as a result of an illness or you’re unsure why you’re showing these symptoms
- Sore throat
- New loss of taste or smell

Return to Work When...

- You or someone in your household is free of fever (100.4° F [37.8° C] or greater using an oral thermometer), signs of a fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g. cough suppressants).
- If you had COVID-19, you have followed the CDC Guidelines to return to work. You may be asked to present negative test result in order to return to work.

Best Practices

Review Best Practices Here

- Wash your hands thoroughly with soap and water for at least 20 seconds
- Stay home when you are sick
- Cover your cough and sneezes
- Avoid touching your eyes, nose, and mouth with unwashed hands
- Avoid close contact including shaking hands – 6 feet if possible
- Clean/disinfect frequently touched surfaces 1-2 times daily

Definitions:

Close contact is defined as:

a) being within approximately 6 feet (2 meters) of a COVID-19 case for a prolonged period of time (i.e., 15 minutes of close exposure); close contact can occur while caring for, living with, visiting, or sharing a healthcare waiting area or room with a COVID-19 case

or

b) having direct contact with infectious secretions of a COVID-19 case (e.g., being coughed on)
Guidelines for Exposure

If employee or member of their household has been exposed to an individual diagnosed with COVID-19

If the employee or member of their household is **symptomatic**:

- The employee should self-isolate and seek health advice to determine if medical evaluation is necessary.
- The employee should follow the guidelines above for ‘How to Discontinue Self-Isolation’

If the employee or member of their household is **not experiencing symptoms**:

- If the employee is a “**close contact**” of someone who is infected, which is defined as being within approximately 6 feet (2 meters) of a person with COVID-19 for a prolonged period of time (i.e., 15 minutes of close exposure):
  - The employee should remain at home and practice social distancing for **14 days** and follow CDC guidelines to discontinue self-isolation.
- If the employee is **not** considered a “close contact” of the individual exposed:
  - The employee should continue to self-observe and practice social distancing. If possible, the employee should work with their supervisor to set up an alternative schedule or remote working arrangements for 14 days since their last exposure.

If, during the 14 days the employee is self-monitoring, the employee becomes symptomatic or is diagnosed with COVID-19, they will follow the appropriate guidelines.
CDC Guidelines for Return to Work

How to Discontinue Self-Isolation

People with COVID-19 who have stayed home (home isolated) can stop home isolation under the following conditions:

- **If you will not have a test** to determine if you are still contagious, you can leave home after these three things have happened:
  - You have had no fever for at least 72 hours (that is three full days of no fever without the use medicine that reduces fevers)
  - AND
  - other symptoms have improved (for example, when your cough or shortness of breath have improved)
  - AND
  - at least 7 days have passed since your symptoms first appeared

- **If you will be tested** to determine if you are still contagious, you can leave home after these three things have happened:
  - You no longer have a fever (without the use medicine that reduces fevers) AND
  - other symptoms have improved (for example, when your cough or shortness of breath have improved) AND
  - You received two negative tests in a row, 24 hours apart. Your doctor will follow CDC guidelines.

- **If you have lab-confirmed COVID-19 and have not had any symptoms** you can leave home after these things have happened:
  - At least 7 days have passed since the date of first positive COVID-19 diagnostic test and there has been no subsequent illness and you remain asymptomatic
  - For 3 days following discontinuation of isolation, limit contact (6 feet away) and wear a covering for nose and mouth whenever in a setting where other people are present.

***Note that recommendations for discontinuing isolation in persons known to be infected with COVID-19 could, in some circumstances, appear to conflict with recommendations on when to discontinue quarantine for persons known to have been exposed to COVID-19. CDC recommends 14 days of quarantine after exposure based on the time it takes to develop illness if infected. Thus, it is possible that a person known to be infected could leave isolation earlier than a person who is quarantined because of the possibility they are infected.
Supervisor Guidance for Exposure to Presumptive or Confirmed COVID-19

Due to the private and protected information regarding an employee’s health, in these times of COVID-19, it is critical that all information about the employee’s COVID-19 diagnosis and/or exposure is shared immediately with the City Manager (CM) and Assistant City Manager (ACM) to ensure that the city treats each situation consistently and within the guidelines of all applicable laws. Under these procedures, the CM, ACM or HR will coordinate communications with the affected employee, as well as other city employees or members of the public that may been in contact with the affected city employee. The CM or ACM will also manage all communications with the general public and the media regarding employees and COVID-19.

Below is guidance for Supervisors and Department Heads to follow if an employee or a member of an employee’s household is diagnosed with, exhibiting symptoms of, or have been exposed to an individual that has been diagnosed with COVID-19. This document should also be used in coordination with the Employee Guidance on COVID-19 Related Situations.
<table>
<thead>
<tr>
<th>Situation</th>
<th>Communication to Employee</th>
<th>Process to Notify City Administrator &amp; Assistant City Administrator</th>
<th>City Administrator &amp; Assistant Administrator will do the following:</th>
</tr>
</thead>
</table>
| 1. An employee indicates that they or a member of their household have tested positive for COVID-19, or presumptively diagnosed by a health care provider with COVID-19. | a) Direct the employee to stay home and follow [CDC guidelines for return to work](https://www.cdc.gov/coronavirus/2019-ncov/workplaces/symptoms.html).  
  b) Let employee know that they may qualify for Federal Emergency Paid Sick Leave. HR will coordinate with them.  
  c) Let them know that either the City Administrator, Assistant City Administrator/HR will be in contact with them regarding next steps. | a) Immediately notify CA and ACA.  
  b) Provide CA/ACA contact information of city employees and any members of the public that the ill employee had contact with in the past 14 days.  
  The [CA/ACA will develop communication that will be shared with all impacted individuals](https://www.cdc.gov/coronavirus/2019-ncov/community/index.html). The Department may be asked to assist with distribution of the communication.  
  c) Specifically identify city facilities and equipment that the employee used in the past 14 days and inform the CA & ACA. | a) The CA or ACA will handle any media requests and inquiries by members of the public regarding the situation.  
  b) The CA or ACA will communicate to affected city staff regarding the situation. [Email Template](https://www.cdc.gov/coronavirus/2019-ncov/hcp/email-template.html)  
  c) The ACA will contact Public Works to facilitate cleaning the affected facilities and equipment. This may include contracting with an outside cleaning company.  
  d) Human Resources will communicate with the affected employee and instruct them of the next steps including the following [Letter Template](https://www.cdc.gov/coronavirus/2019-ncov/hcp/email-template.html):  
    i. The employee will follow the [CDC guidelines below](https://www.cdc.gov/coronavirus/2019-ncov/workplaces/symptoms.html) for return to work. The city may require the employee to provide a letter from a health professional that the employee is cleared to return to work.  
## Supervisor Guidance on Health Issues

### Guidance for Exposure to Presumptive or Confirmed COVID-19

<table>
<thead>
<tr>
<th>Situation</th>
<th>Communication to Employee</th>
<th>Process to Notify City Administrator &amp; Assistant City Administrator</th>
<th>City Administrator &amp; Assistant City Administrator will do the following:</th>
</tr>
</thead>
</table>
| 2. An employee indicates that they or a member of their household have had close contact with an individual that has been diagnosed or presumptively diagnosed by a health care professional with COVID-19. | a) Instruct the employee to follow their health care provider’s guidance. The employee should follow guidelines for exposure and return to work. Employee may be required to wear a mask while at work if they are asymptomatic (if not working remotely).  
   i. If employee has symptoms, direct the employee to stay home and follow [CDC guidelines for return to work](https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html).  
   b) Let Employee know that they may qualify for Federal Emergency Paid Sick Leave. HR will coordinate with them.  
   c) Let them know that either the City Administrator or Assistant City Administrator/HR will be in contact with them depending on the circumstances. | a) Immediately notify CA and ACA  
   b) Provide CA & ACA with details regarding the exposure including the date it occurred  
   c) If necessary, provide CA & ACA contact information of city employees and any members of the public that the employee had since the date of exposure. The CA & ACA may contact the impacted people depending on the circumstances  
   d) If necessary, specifically identify city facilities and equipment that the employee used since the date of first exposure inform the CA & ACA. | a) The CA or ACA will handle any media requests and inquiries by members of the public regarding the situation.  
   b) The CA or ACA may communicate [Notification Criteria](https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing.html) to affected city staff regarding the situation.  
   c) The ACA may contact Public Works to facilitate cleaning the affected facilities and equipment depending on the circumstances.  
   d) Human Resources will communicate with the affected employee and instruct them of the next steps including the following:  
   i. The employee will follow the [CDC guidelines below](https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/testing.html) for return to work. The city may require the employee to provide a letter from a health professional that the employee is cleared to return to work.  
<table>
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<tr>
<th>Situation</th>
<th>Communication to Employee</th>
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<th>City Administrator &amp; Assistant Administrator will do the following:</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. An employee indicates that they or a member of their household have been exposed to an individual that is experiencing COVID-19 symptoms.</td>
<td>b) Instruct the employee to follow their health care provider’s guidance. Direct employee to follow guidelines for exposure and alternative working arrangements if possible. &lt;br&gt; c) Indicate to the employee that they should closely monitor their symptoms, practice social distancing and report any COVID-19 like symptoms to their supervisor immediately. &lt;br&gt; d) Direct the employee that should symptoms arise for either themselves or their household member, they may be eligible for Federal Emergency Leave.</td>
<td>a) Keep the CA &amp; ACA aware of these situations, and continue to share information in a timely manner.</td>
<td>a) Monitor the situation and may communicate with staff depending on the circumstances.</td>
</tr>
</tbody>
</table>
CDC Guidelines for Return to Work

How to Discontinue Self-Isolation

People with COVID-19 who have stayed home (home isolated) can stop home isolation under the following conditions:

- **If you will not have a test** to determine if you are still contagious, you can leave home after these three things have happened:
  - You have had no fever for at least 72 hours (that is three full days of no fever without the use medicine that reduces fevers)
  - other symptoms have improved (for example, when your cough or shortness of breath have improved)
  - at least 7 days have passed since your symptoms first appeared
- **If you will be tested** to determine if you are still contagious, you can leave home after these three things have happened:
  - You no longer have a fever (without the use medicine that reduces fevers)
  - other symptoms have improved (for example, when your cough or shortness of breath have improved)
  - You received two negative tests in a row, 24 hours apart. Your doctor will follow CDC guidelines.
- **If you have lab-confirmed COVID-19 and have not had any symptoms** you can leave home after these things have happened:
  - At least 7 days have passed since the date of first positive COVID-19 diagnostic test and there has been no subsequent illness and you remain asymptomatic
  - For 3 days following discontinuation of isolation, limit contact (6 feet away) and wear a covering for nose and mouth whenever in a setting where other people are present.

***Note that recommendations for discontinuing isolation in persons known to be infected with COVID-19 could, in some circumstances, appear to conflict with recommendations on when to discontinue quarantine for persons known to have been exposed to COVID-19. CDC recommends 14 days of quarantine after exposure based on the time it takes to develop illness if infected. Thus, it is possible that a person known to be infected could leave isolation earlier than a person who is quarantined because of the possibility they are infected.

If a member of an employee’s household has been diagnosed with COVID-19 either through a test, or by a medical professional without a test, the employee will not return until 14 days has passed since the diagnosis.
**Guidelines if employee or member of their household has been exposed to an individual diagnosed with COVID-19**

If the employee or member of their household is symptomatic:

- The employee should self-isolate and seek health advice to determine if medical evaluation is necessary.
- The employee should follow the guidelines above for ‘How to Discontinue Self-Isolation’

If the employee or member of their household is not experiencing symptoms:

- If the employee is a **close contact** of someone who is infected, which is defined as being within approximately 6 feet (2 meters) of a person with COVID-19 for a prolonged period of time:
  - The employee should remain at home and practice social distancing for 14 days and follow CDC guidelines to discontinue self-isolation.
- If the employee is **not** considered a “close contact” of the individual exposed:
  - The employee should continue to self-observe and practice social distancing. If possible, the employee should work with their supervisor to set up an alternative schedule or remote working arrangements for 14 days since their last exposure.

If, during the 14 days the employee is self-monitoring, the employee becomes symptomatic or is diagnosed with COVID-19, they will follow the appropriate guidelines.
1. **What if an employee is exhibiting COVID-19 like symptoms in the workplace, what protocol should I follow?**

   The employee should be treated the same as any other employee who displays symptoms of a contagious disease. Employees who appear to have **symptoms** (i.e., fever, cough, or shortness of breath) upon arrival at work or who become sick during the day should immediately be separated from other employees, customers, and visitors and sent home.

   Employers can require employees to **stay home** from work if they have signs or symptoms of a communicable disease that poses a credible threat of transmission in the workplace, or if they have traveled to high-risk geographic areas, such as those with wide-spread or sustained community transmission of the illness.

   Employers may **send employees home** if they are displaying symptoms of contagious illness. Supervisors should refrain from announcing to employees that a coworker is at risk of or actually has a disease. Instead, supervisors should focus on educating employees on best practices for illness prevention.

   Employees who have symptoms of COVID-19 are recommended to stay home and follow the [CDC guidelines to discontinue home isolation](https://www.cdc.gov/coronavirus/2019-ncov/about/index.html).

2. **What should a supervisor do if an employee is suspected or confirmed to have COVID-19?**

   Supervisors should follow the procedures outlined in the Supervisor Guidance for Exposure to Presumptive or Confirmed Cases of COVID-19, including notifying the City Administrator and Assistant City Administrator.

   - Wait 24 hours before cleaning and disinfecting to minimize potential for other employees being exposed to respiratory droplets. If waiting 24 hours is not feasible, wait as long as possible.
   - During this waiting period, open outside doors and windows to increase air circulation in these areas.
     - Clean dirty surfaces with soap and water before disinfecting them.
     - To disinfect surfaces, use products that meet EPA criteria for use against SARS-Cov-2, the virus that causes COVID-19, and are appropriate for the surface.
• Always wear gloves and gowns appropriate for the chemicals being used when you are cleaning and disinfecting.
• You may need to wear additional personal protective equipment (PPE) depending on the setting and disinfectant product you are using.

3. **Can a Supervisor notify other employees that may have been exposed to a coworker with symptoms or a diagnosed case of COVID-19?**

Supervisors should follow the procedures outlined in the Supervisor Guidance for Exposure to Presumptive or Confirmed Cases of COVID-19. In addition, in order to protect the privacy of employee’s health status and health information and assure compliance with applicable laws, Supervisors **MAY NOT** reveal the name of the person who has reported COVID-19 symptoms or tested positive/negative other than to those who absolutely need to know. If an employee would like others to be made aware of their situation, they should ask a coworker to share the information and not a supervisor, manager or Human Resources. Supervisor and managers should not share this information under any circumstances, even if it is widely known among a work group(s).

4. **What should a supervisor do if the Minnesota Department of Health or an employee’s healthcare provider tells an employee to quarantine themselves at home?**

If the employee is able to work from home, supervisors should consider alternative and flexible work options, if possible. If an employee is unable to work, even with an alternative or flexible work option, continue to follow normal policies and procedures for leave under the applicable collective bargaining agreement or city policy. Additionally, supervisors should contact Human Resources as the employee may be eligible for additional leave or FMLA.

5. **How much information may a supervisor request from an employee who reports feeling ill at work or calls in sick?**

Supervisors may not ask employees about a diagnosis, but employees may choose to voluntarily share this information. Supervisors may ask employees if they are experiencing COVID-19-like symptoms, such as fever, and a cough or sore throat. Employers must maintain all information about employee illness as a confidential medical record in compliance with state and federal law.

If an employee voluntarily discloses that they have a medical condition or disability that places them at higher risk of COVID-19 complications, the employer must keep this information confidential. Supervisors may not assume that employees with known medical conditions or disabilities are at heightened risk of complications from COVID-19.
6. **What should supervisors do if employees are concerned about potential exposure to COVID-19?**

Supervisors should be empathetic to their employee’s concerns. This is a heightened situation that may cause additional stress on employees and their families. Employees should be encouraged to follow the same precautions used to avoid getting a cold, the flu, or other infectious diseases. These precautions include staying home when sick, washing hands, covering coughs and sneezes and not touching your face.

Supervisors are encouraged to follow the guidelines established in the City of South St. Paul COVID-19 Preparedness Plan such as:

- Increasing physical space between workers at the worksite
- Staggering work schedules
- Decreasing social contacts in the workplace (e.g. limit in-person meetings, meeting for lunch in a break room, etc.)
- Limiting large work-related gatherings (e.g. staff meetings)
- Limiting non-essential work travel
Facial Covering Policy

**Guidelines**

The Centers for Disease Control and Prevention (CDC) recommends people should begin wearing cloth face coverings as a voluntary public health measure in public settings where social distancing (a space of six feet apart) is difficult to maintain.

Cloth face coverings are not surgical masks or N-95 respirators. Those are critical supplies that must continue to be reserved for those providing direct patient care, as recommended by current CDC guidance. The face coverings do not have to be hospital grade but need to cover the nose and mouth. For example, bandanas, scarves, or fabric masks.

The policy encourages that staff, volunteers and contractors use a cloth or similar mask in all common and shared areas within City facilities such as lunch room, mail room, meeting areas or other areas where it is difficult to maintain social distancing guidelines. This could also include time spent in vehicles, working in close proximity the public or other employees.

This policy is also extended outside of common and shared areas in the following cases:

1. It is deemed necessary during the COVID-19 health crisis
2. Your department requires it based on job function (e.g. Police Officer, Firefighter, etc.)
3. You have a high public-interaction job (i.e. customer service counters, etc.) and you are working in a city facility open to the public and are directly interacting with individual(s) without a barrier or in situations where social distancing of 6 feet cannot be accommodated or is frequently interrupted
4. You are returning to work after a potential exposure (the employee should wear the mask at all times while in the workplace for 14 days after last exposure).*

*Employees who have been exposed to a positive COVID-19 case are required to stay home or work remotely. If the employee is deemed a critical or essential employee and is not displaying symptoms and cannot work remotely, they will be required to wear a mask per their department policy.

When using a facial covering, you must be able to perform the essential functions of your job, including clear communication. To ensure clear communication, the face covering may be temporarily removed if you maintain six feet of separation from the person you are communicating with, a barrier exists between you and the person you are communicating with, or you are communicating via telephone.

Certain departments or divisions may have policies for wearing masks or Personal Protective Equipment (PPE). Departments that currently have or will develop a specific policy, those policies will supersede these guidelines.
Employees who are unable to wear a mask due to breathing issues, or other health related issues should contact their supervisor to make other arrangements.

Continue to follow CDC and Minnesota Department of Health (MDH) recommendations to stay home if you are sick. Cloth face coverings are recommended for pre-symptomatic or asymptomatic individuals. Please refer to the Guide located on the intranet that outlines the types of leave available if you are impacted by COVID-19.

Any facial covering must follow appearance guidelines:

- The following are considered inappropriate for business appearance: Logo wear that is graphic, offensive, disrespectful, or distasteful in a business environment.

Members of the Public are strongly encouraged to wear a cloth face covering or mask when inside a City facility. When inventory allows, the City will provide disposable face covering at the entrance to all City facilities for the public to use if they do not have their own face covering or mask.

**Obtaining a facial covering**

The City will provide each employee one (1) cloth face covering and will provide training on the proper method to don/doff the mask. Employees are responsible for regularly cleaning the mask. Employees may also use their own cloth face covering if they choose. Volunteers and contractors are asked to provide their own cloth face coverings.

If you make cloth face coverings, follow the [CDC Guidelines on Homemade Cloth Face Coverings](https://www.cdc.gov/handsonhealth/guidance-for-community-face-coverings.html) or the [MDH Guidance on Alternative Facemasks](https://www.health.state.mn.us).
Facial Covering Usage Guidelines

**DEFINITIONS**

a. **Social Distancing** - Avoiding close contact with others and maintaining 6 feet of distance between individuals.

b. **Cloth Mask** - A face covering mask that was hand sewn and made of cloth.

c. **Surgical Mask** - A face covering mask that was manufactured for a single (day) use. These are typically blue and have around the ear loops.

d. **Disposable Glove** - A disposable single use ‘rubber’ glove to provide barrier protection of the hands.

e. **Donning** - The term used to describe the placing of a face-mask in position on the face.

f. **Doffing** - The term used to describe the removal of a face-mask from a position on the face.

**GUIDELINE**

See City COVID-19 Preparedness Plan

Cloth Face-Mask Washing – A cloth face mask should be washed after each day of use. Standard laundry procedures should be followed utilizing normal laundry detergent.

**REFERENCE VIDEOS**

Below are two separate videos, these videos provide information on how to properly donn and doff a face covering mask:

- Cloth Face-Mask: [hUps://youtu.be/uMbAp0P1zM4](https://youtu.be/uMbAp0P1zM4)
- Surgical Face-Mask: [hUps://youtu.be/SLPH1otTBno](https://youtu.be/SLPH1otTBno)
- Disposable Glove Usage: [hUps://youtu.be/3I_kKVNrEMo](https://youtu.be/3I_kKVNrEMo)
How to Wear a Mask Properly

DO’S AND DON’TS OF MASKS

1.) ✗ DON’T: WEAR THE MASK BELOW YOUR NOSE.

2.) ✗ DON’T LEAVE YOUR CHIN EXPOSED

3.) ✗ DON’T WEAR MASK LOOSELY WITH GAPS ON SIDES

4.) ✗ DON’T WEAR MASK SO IT COVERS JUST TIP OF NOSE

5.) ✗ DON’T PUSH MASK UNDER CHIN

5.) ✔ DO WEAR IT

Do wear the mask so it comes all the way up, close to the bridge of your nose, and all the way down under your chin. Do your best to tighten the loops or ties so it’s snug around your face, without gaps.
Workspace Disinfecting Guidelines

DEFINITIONS

a. **Spray Disinfectant** - Avoiding close contact with others and maintaining 6 feet of distance between individuals.

b. **Disinfectant Wipes** - A Clorox or similar style disinfectant wipe with cleaning solutions already applied to the wipe.

GUIDELINES

- General workspace disinfecting will be completed in accordance with the City COVID-19 Preparedness Plan utilizing provided spray disinfectant and white cloth towels or paper towels.

*If departments use white cloth towels, then:*

- Clean towels will be stored in the clear storage bin labeled “Clean Towels.”

- A Used Towel clear storage bin will be provided. Before towels are placed inside this bin it should be lined with a white garbage bag.

- When a towel has been used and is ready to be discarded it should be placed in the “Used Towel” bin.

- Used towel bins will be collected on an as-needed basis by each department and each department will be responsible for collecting and cleaning their towels.

- When washing used towels, regular laundry soap and bleach should be used in accordance with the wash machine guidelines. Bleach may be supplied from Fire/Emergency Management group if needed.
1. Pinch and hold the outside of the glove near the wrist area.

2. Peel downwards away from the wrist, turning the glove inside-out.

3. Pull the glove away until it is removed from the hand, holding the inside-out glove with the gloved hand.

4. With your un-gloved hand, slide your fingers under the wrist of the remaining glove. Do not touch the outer surface of the glove.

5. Peel downwards, away from the wrist, turning the glove inside out.

6. Continue to pull the glove down and over the inside-out glove being held in your gloved hand.
Criteria to Notify Employees of Potential Exposure

The City of South St. Paul has a general duty to provide a safe workplace under federal OSHA laws. The CDC advises that if an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA). Under the ADA, employers are required to maintain the confidentiality of any medical information they receive, including the name of the affected employee.

As part of that, the City of South St. Paul will try to determine which, if any, employees were exposed to COVID-19 first through investigating the employee’s schedule and work location to determine with whom the employee interacted. The City may also request an employee provide a list of other employees with whom they had close contact with during the last 14 days if they are confirmed to have COVID-19.

Below is a general outline of the criteria the City will use to notify other employees of potential exposure to COVID-19.

Notification will occur under these circumstances:

4. Employee is symptomatic of COVID-19 and/or has been asked to self-quarantine by a health care provider.
5. Employee has tested positive or been diagnosed with COVID-19 by health care provider.
6. Employee has been asked to self-quarantine due to someone in their household testing positive for COVID-19.

Notification will NOT occur if:

3. Employee has been exposed to someone who has tested positive, or been diagnosed with COVID-19 (outside of their household) and does not have symptoms.
4. Employee has been exposed to a potential positive test case of COVID-19.
AGENDA ITEM: Discuss Proposed Revisions to Tobacco Ordinance

DESIRED MEETING OUTCOMES: DISCUSS THE INCLUSION OF PURCHASE, USE, POSSESSION PENALTIES IN REVISIONS TO OUR TOBACCO ORDINANCE.

OVERVIEW:

At our last work session, we discussed revisions to our Tobacco Ordinance needed because of changes to the Family Smoking Prevention and Tobacco Control Act (Federal Tobacco 21 Law) that prohibits retailers from selling tobacco products to anyone under the age of 21. We decided to table the discussion pending the outcome of Minnesota’s modifications to their tobacco statutes. Minnesota law has now been finalized and we should decide how to proceed with the revisions to our ordinance to bring us into compliance with Federal and State laws.

The principal issue to resolve is the inclusion of penalties against 18-20-year-olds for attempted purchase, use, and possession of tobacco products (“PUP penalties”). According to Elyse Less of the Tobacco Free Alliance of Minnesota, almost all of Minnesota’s 60+ Tobacco 21 communities removed PUP penalties. The primary reason for removing the penalties relates to evidence that suggests PUP laws against youth actually detract from effective enforcement measures and tobacco control efforts. Neither the Federal nor State laws include PUP penalties.

In discussing this facet of the ordinance with Chief Messerich, he noted that the cities around us do not have those penalties and he would prefer we not include it as part of our ordinance.

The City Attorney will try to participate in this discussion following the conclusion of her commitment in WSP.

ATTACHMENTS:

Proposed Ordinance Revision
Public Health Law Center – Draft Ordinance for SSP

SOURCE OF FUNDS:

N/A
The City Council of the City of South St. Paul does ordain:

SECTION 1. AMENDMENT. South St. Paul City Code Article XXI, Division I, Section 18-671, regarding Tobacco is hereby amended as follows:

ARTICLE XXI. - TOBACCO
DIVISION 1. - GENERALLY
Sec. 18-671. - Definitions and interpretations.

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:

**Compliance checks.** The system the city police department uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco-related devices are following and complying with the requirements of this article. Compliance checks shall involve the use of minors persons between the ages of 18 and 21 as authorized by this article. Compliance checks shall also mean the use of persons between the ages of 18 and 21 minors who attempt to purchase tobacco, tobacco products or tobacco-related devices for educational, research and training purposes as authorized by state and federal laws.

**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 packing 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 a retractable divider, garage door, or other physical barrier, whether temporary or permanent.

**Loosies.** The common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The
term “loosies” does not include individual cigars with a retail price, before any sales tax, of more than $2.00 per cigar.

**Minor.** Any person under 18 years of age.

**Moveable place of business.** Any form of business operated out of a truck, van, automobile, or other type of vehicle, or transportable shelter, and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

**Nicotine delivery devices.** Any product containing or delivering nicotine intended for human consumption, or any part of such product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the FDA for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

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

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

**Self-service merchandising.** Open displays of tobacco, tobacco products or tobacco-related devices in any manner where any person shall have access to the tobacco, tobacco products or tobacco-related devices without the assistance or intervention of the licensee or the licensee’s employee. Such assistance or intervention shall involve the actual physical exchange of the tobacco, tobacco product or tobacco-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

**Tobacco or tobacco products.** 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; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

**Tobacco-related device.** Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or other consumption, whether by inhalation, ingestion, or any other method of consumption, of tobacco or tobacco products.
Vending machine. Any mechanical, electric or electronic self-service device that upon the insertion of money, tokens or other form of payment dispenses tobacco products, and includes vending machines equipped with manual, electric or electronic locking devices.

Sec. 18-672. - Purpose.

Because the city recognizes that many persons under the age of 18 years may purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws, and because smoking has been shown to be the cause of several severe health problems which subsequently place a financial burden on all levels of government, this article is intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect persons under the age of 21 against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, 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.

Sec. 18-673. - Prohibited sales.

(a) It shall be a violation of this article for any person to sell, offer to sell, give away, furnish, or otherwise deliver any tobacco, tobacco product, or tobacco-related device to any person under the age of 18 years.

(b) It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco-related devices:

(1) By the means of a vending machine unless minors persons under 18 are at all times prohibited from entering the licensed establishment;

(2) By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the licensee in order to receive the tobacco, tobacco product or tobacco-related device and where there is not a physical exchange of the tobacco, tobacco product or tobacco-related device between the licensee or the licensee’s employee and the customer. All tobacco, tobacco-related products and tobacco-related devices shall be stored behind the counter;

(3) By means of loosies as defined in section 18-671;

(4) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; or

(5) By any other means, to any other person, in any other manner or form prohibited by federal, state, or local law, ordinance, or other regulation.
This section 18-673(b)(1)-(2) shall not apply to retail stores which derive at least 90 percent of their gross revenue from the sale of tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

Sec. 18-674. - Self-service sales.

It shall be unlawful for a licensee to allow the sale of tobacco, tobacco products or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee’s employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco-related device between the licensee or the licensee’s clerk and the customer. All tobacco, tobacco products and tobacco-related 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.

Sec. 18-675. - Responsibility.

All licensees shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco-related devices on the licensed premises, and the sale of any such item by an employee shall be considered a sale by the license holder for the purposes of this article.

Sec. 18-676. - Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police department or other delegated law enforcement officers or agencies during regular business hours. From time to time, but at least once per year, a law enforcement officer shall conduct compliance checks to ensure compliance with the provisions of this article. Compliance checks shall utilize, with the written consent of their parents or guardians, minors persons over the age of 15-18 years, but less than 21 years, to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices. Persons Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers. Minors-Persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, or the unlawful possession of tobacco, tobacco products or tobacco-related devices when such items are obtained as a part of the compliance check. No minor-person used in compliance checks shall attempt to use a false identification misrepresenting the minor person’s age, and all minors-persons lawfully engaged in a compliance check shall answer all questions about the minor person’s age asked by the licensee or employee thereof and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit other 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.

Sec. 18-677. - Illegal acts.

Unless otherwise provided, the following acts shall be a violation of this article:
(1) **Illegal sales.** It shall be unlawful for any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any person under 21 minor.

(2) **Illegal possession.** It shall be unlawful for any minor person under 21 to possess any tobacco, tobacco product or tobacco-related device. This section shall not apply to minors persons under 21 lawfully involved in a compliance check.

(3) **Illegal use.** It shall be unlawful for any minor person under 21 to smoke, chew, sniff or otherwise use any tobacco, tobacco product, tobacco-related device or nicotine delivery device.

(4) **Illegal purchase.** It shall unlawful for any minor person under 21 to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco-related device, and it shall be unlawful for any person to purchase, or otherwise obtain such items on behalf of a minor person under 21. It shall further be a violation for any person to coerce or attempt to coerce a minor person under 21 to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device.

(5) **Use of false identification.** It shall be unlawful for any minor person under 21 to attempt to disguise the minor’s true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with, to represent an age older than the actual age of the person.

**Sec. 18-678. - Civil enforcement.**

The licensee shall be responsible for the conduct of its agents or employees while they are on the licensed premises. Any violation of this article shall be considered an act of the licensee for the purpose of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation continues, shall constitute a separate offense.

**Sec. 18-679. - Administrative penalties.**

(a) If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this article, the licensee shall be charged an administrative penalty of $75.00. An administrative penalty of $200.00 and up to a three-day suspension with a one--day minimum suspension must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of $250.00 shall be imposed, and the licensee’s authority to sell tobacco at that location must be suspended for ten days. Any subsequent violation can result in license revocation. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city council. A decision that a
violation has occurred must be in writing. If the city council determines that a violation of this article did occur, that decision, along with the city council’s reasons for finding a violation and the administrative penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the violator. Likewise, if the city council finds that no violation occurred or finds grounds for not imposing any administrative penalty, such findings shall be recorded and a copy provided to the alleged violator.

(b) Individuals found to be in violation of this article shall be charged an administrative fee in the amount established by chapter 26. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city council. A decision that a violation has occurred must be in writing.

Sec. 18-680. - Exceptions and defenses.

(a) Religious, spiritual or cultural ceremony. Nothing in this article shall prevent the providing of tobacco, tobacco products or tobacco-related devices to a person under 21 years of age as part of a lawfully recognized religious, spiritual, or cultural ceremony.

(b) Reliance on proof of age. It shall be an affirmative defense for a person to have reasonably relied on proof of age as described by Minn. Stat. § 340A.503, subd. 6.

Secs. 18-681—18-703. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-704. - Required; application; non-transferability; renewals; other requirements.

(a) Required. No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related devices without first obtaining a license from the city.

(b) Application. An application for license to sell tobacco, tobacco products or tobacco-related devices shall be made on a form provided by the city clerk. 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, the name of the proposed license holder, the location of the proposed business, and a copy of the educational materials the applicant intends to use to educate employees, and any additional information the city clerk deems necessary. The completed application and fee shall be submitted to the city clerk for approval. If the city clerk determines that an application is incomplete, it shall be returned to the applicant with notice of the deficiencies.

(c) Reserved.

(d) Transfers. All licenses issued pursuant to this division shall be valid only on the premises for which the license was issued and only for the person to whom the
license was issued. No transfer of any license to another location shall be valid without the prior written approval of the city clerk.

(e) *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 division.

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

(g) *Renewals.* The renewal of the license issued under this article shall be processed 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. The issuance of a license under this article shall be considered a privilege and not a right of the applicant, and shall not entitle the holder to automatic renewal of the license.

(h) *Instructional program.* No person shall be issued a license or renewal license to sell tobacco-related products unless an applicant or license holder has a program for instructing all employees regarding the legal requirements pertaining to the sale of tobacco products at the business premises for which the license was issued. The instructional program shall include, but not be limited to, reviewing the law on the sale of tobacco products and requiring employees to request identification from every customer who is under 27 years of age. The training shall include information that the sale of tobacco products to persons under 21 years of age is illegal, explanation of what proof of age is legally acceptable, and that a sale to a person under 21 can subject the applicant or license holder and their employees to criminal and/or civil liability.

(i) *Sampling.* Sampling of tobacco, tobacco products, tobacco-related devices or nicotine delivery devices shall not be permitted within the indoor area of any establishment with a retail tobacco license.

(j) *Storage.* All tobacco, tobacco products, tobacco-related devices or nicotine 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.

**Sec. 18-705. - Fees.**

The license fee is set by chapter 26 of this Code.

**Sec. 18-706. - Basis for denial of license.**

The following shall be grounds for denying the issuance of or renewal of a license. The following list is not exclusive of the grounds for denial:
(1) The applicant is under the age of 18 years of age.

(2) The applicant or license holder has had a license to sell tobacco, tobacco products or tobacco-related devices revoked anywhere within the preceding 12 months of the date of application, or is subject to penalties under section 18-679.

(3) The applicant or license holder fails to provide any information required on the application, or provides false or misleading information.

(4) The applicant or license holder is prohibited by federal, state, or other local law, ordinance or regulation from holding such a license.

(5) The applicant or license holder has outstanding fines, penalties, or property taxes owed to the county or to the city.

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

This amendment is in accordance with the Federal Food, Drug and Cosmetic act, raising the minimum age of the sale of any tobacco product, including cigarettes, cigars and e-cigarette products from 18 to 21 years.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective upon publication.

Approved: _______________________

Published: _______________________

____________________________________
Christy Wilcox, City Clerk
AN ORDINANCE AMENDING ARTICLE XXI REGARDING TOBACCO SALES TO PERSONS UNDER AGE 21

The City Council of the City of South St. Paul does ordain:

SECTION 1. AMENDMENT. South St. Paul City Code Article XXI, Division I, Section 18-671, regarding Tobacco is hereby amended as follows:

ARTICLE XXI. - TOBACCO

DIVISION 1. - GENERALLY

Sec. 18-671. - Definitions and interpretations.

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 it may be amended from time to time.

Compliance checks. The system the city police department uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco-related devices/licensed products are following and complying with the requirements of this article. Compliance checks shall involve the use of minors-persons between the ages of 18 and under the age of 21 as authorized by this article. Compliance checks shall also mean the use of persons between the ages of 18 and under the age of 21 (minors) who attempt to purchase tobacco, tobacco products or tobacco-related devices/licensed products for educational, research and training purposes as authorized by state and federal laws.

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.

**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 a retractable divider, garage door, or other physical barrier, whether temporary or permanent.

**Licensed products.** 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 single cigarettes, cigars, and any other licensed product that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor. The common term used to refer to a single individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term “loosies” does not include individual cigars with a retail price, before any sales tax, of more than $2.00 per cigar.

**Minor.** Any person under 18 years of age.

**Moveable place of business.** Any form of business operated out of a truck, van, automobile, or other type of vehicle, or transportable shelter, and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

**Nicotine or lobelia delivery devices.** Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the FDA for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

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

**Commented [PHLC8]:** This definition is unnecessary and confusing in its description of what is considered individually packaged. The only place this term is used is in the definition of “loosies.” Instead, the definition of loosies could be clarified to cover all intended products that the City wants to cover. The sample language to define “loosies” should help clarify the products captured here.

**Commented [PHLC9]:** As noted above, the City may consider adding a new definition as an “umbrella” or catch-all term that includes all of the tobacco products covered in the ordinance (tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products). One umbrella term other jurisdictions have used is “licensed products.” This allows for simplification throughout the ordinance. Here and throughout the rest of the ordinance, instead of listing all covered products, the code need only reference “licensed products.”

**Commented [PHLC10]:** Federal law and the MSA prohibit the sale of single cigarettes (commonly referred to as “loosies”), but not other harmful commercial tobacco products often sold individually and for a low price. State and local governments can replicate and expand the federal provisions to close the loopholes that exist. This language includes and expands on the existing federal ban on the sale of single cigarettes known as “loosies” to include the sale of single cigars and other tobacco products (e.g., smokeless pouches and Juul pods) that have been removed from their intended packaging. So essentially, with this definition and the prohibition on the sale of loosies (included later in the ordinance) the sale of any tobacco product that has been removed from its original packaging is prohibited. As noted above, this revised definition allows for the removal of the definition and use of the term “individually packaged.”

**Commented [PHLC11]:** PHLC’s has revised our sample loosies definition and it does not rely on a price point. Including that price point effectively created a minimum price for the sale of single cigars. If that is the city’s intention, then the minimum price should be set in its own provision under the sales restrictions below as opposed to in the definition of loosies. I have inserted sample language with comment to establish a $2.00 minimum price for a single cigar below in Sec. 18-673 (d) if the City would like to continue that restriction.

**Commented [PHLC12]:** State law requires local jurisdictions to license specifically for the sale of “nicotine or lobelia delivery devices” so the definition was updated to reflect state law.
Sale. Any transfer of goods for money, trade, barter, or other consideration.

Self-service merchandising. Open displays of tobacco, tobacco products or tobacco-related devices licensed products in any manner where any person shall have access to the tobacco, tobacco products or tobacco-related devices licensed products without the assistance or intervention of the licensee or the licensee’s employee. Such assistance or intervention shall involve the actual physical exchange of the licensed product tobacco, tobacco product or tobacco-related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Tobacco or tobacco products. 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; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco-related device. Any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or other consumption, whether by inhalation, ingestion, or any other method of consumption, of tobacco or tobacco products. Tobacco-related devices may or may not contain tobacco.

Vending machine. Any mechanical, electric or electronic self-service device that upon the insertion of money, tokens or other form of payment dispenses tobacco licensed products, and includes vending machines equipped with manual, electric or electronic locking devices.

Sec. 18-672. —Findings and Purpose.

In making these findings, the City Council 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 under the age of 21 violates federal law; 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 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 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.

Because the city recognizes that many persons under the age of 18 21 years may purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco-related devices, and such sales, possession and use are violations of both state and federal laws, and because smoking has been shown to be the cause of several severe health problems which subsequently place a financial burden on all levels of government, this article is intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors persons under the age of 21 against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco-related devices, 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.

Sec. 18-673. - Prohibited sales.

(a) It shall be a violation of this article for any person to sell, offer to sell, give away, furnish, or otherwise deliver any tobacco, tobacco product, or tobacco-related device licensed product to any person under the age of 18 21 years.

1. **Age verification.** Licensees must 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.

(b) It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco-related devices licensed products:

1. **By the means of a vending machine.** Unless minors persons under 18 are at all times prohibited from entering the licensed establishment;

2. **By means of self-service merchandising whereby the customer does not need to make a verbal or written request to an employee of the licensee in order to receive the tobacco, tobacco product or tobacco-related device licensed product and where there is not a physical exchange of the tobacco, tobacco product or tobacco-related device licensed product.**
product or tobacco-related device licensed product between the licensee or the licensee’s employee and the customer. All tobacco, tobacco-related products and tobacco-related devices licensed products shall be stored behind the 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.

(3) By means of loosies as defined in section 18-671;

(4) Containing opium, morphone, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process, or

(5) By any other means, to any other person, in any other manner or form prohibited by federal, state, or local law, ordinance, or other regulation.

This section 18-673(b)(1)-(2) shall not apply to retail stores which derive at least 90 percent of their gross revenue from the sale of tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

(c) Liquid packaging. No person shall sell or offer to sell any 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.

(d) Cigars. No person shall sell or offer to sell a single cigar with a sales price of at least $2.00 after any discounts are applied and before sales taxes are imposed.

Sec. 18-674. - Self-service sales.

It shall be unlawful for a licensee to allow the sale of tobacco, tobacco products or tobacco-related licensed products devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee’s employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco-related device licensed product between the licensee or the licensee’s clerk and the customer. All tobacco, tobacco products and tobacco-related devices 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. 18-6745. - Responsibility.

All licensees shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco-related devices licensed products on the licensed premises,
and the sale of any such item by an employee shall be considered a sale by the license holder for the purposes of this article.

Sec. 18-6756. - Compliance checks and inspections.

All licensed premises shall be open to inspection by the city police department or other delegated law enforcement officers or agencies during regular business hours. From time to time, but at least once per year, a law enforcement officer of the City shall conduct compliance checks to ensure compliance with the provisions of this article. 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 15-17 and at least one compliance check that involves the participation of a person over the age of 15-18 years, but less than 21 years, to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices licensed products. Prior written consent of parents or guardians is required for any person under the age of 18 to participate in a compliance check. Persons Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers. Minor persons used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, or the unlawful possession of tobacco, tobacco products or tobacco-related devices when such items are obtained as a part of the compliance check. No minor person used in compliance checks shall attempt to use a false identification misrepresenting the minor’s age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor’s age asked by the licensee or employee thereof and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit the use of any tobacco, tobacco product or tobacco-related device.

Sec. 18-6757. - Illegal Other prohibited acts.

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

1. **Illegal sales.** It shall be unlawful for any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any minor.

2. **Illegal possession.** It shall be unlawful for any minor to possess any tobacco, tobacco product or tobacco-related device. This section shall not apply to minors lawfully involved in a compliance check.

3. **Illegal use.** It shall be unlawful for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product, tobacco-related device or nicotine delivery device.

4. **Illegal purchase.** It shall be unlawful for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco-related device, and it shall be unlawful for any person to purchase, or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor person to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device.

5. **Illegal use.** It shall be unlawful for any minor to use any tobacco, tobacco product, or tobacco-related device, or to be in possession of any such device.

6. **Illegal possession.** It shall be unlawful for any minor to possess any tobacco, tobacco product or tobacco-related device.

7. **Illegal sale.** It shall be unlawful for any person to sell or otherwise provide any tobacco, tobacco product or tobacco-related device to any minor.

8. **Illegal use.** It shall be unlawful for any person to smoke, chew, sniff or otherwise use any tobacco, tobacco product, tobacco-related device or nicotine delivery device.

9. **Illegal purchase.** It shall be unlawful for any person to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco-related device, or to be in possession of any such device.

10. **Illegal use.** It shall be unlawful for any person to use any tobacco, tobacco product or tobacco-related device.
Unless otherwise provided, the following acts shall be a violation of this article:

(4) Use of false identification. It shall be unlawful for any minor person under 21 to attempt to disguise the minor person's true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with, to represent an age older than the actual age of the person.

Sec. 18-6778. - Civil enforcement.

The licensee shall be responsible for the conduct of its agents or employees while they are on the licensed premises. Any violation of this article shall be considered an act of the licensee for the purpose of imposing a civil penalty, license suspension, or revocation. Each violation, and every day in which a violation continues, shall constitute a separate offense.

Sec. 18-6789. - Administrative penalties.

(a) If a licensee or employee of a licensee sells tobacco-licensed products to a person under the age of 18 or 21 years, or violates any other provision of this article, the licensee shall be charged an administrative penalty of $75.00. An administrative penalty of $200.00 and up to a three-day suspension with a one-day minimum suspension must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of $250.00 shall be imposed, and the licensee's authority to sell tobacco at that location must be suspended for ten days. Any subsequent violation can result in license revocation. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city council. A decision that a violation has occurred must be in writing. If the city council determines that a violation of this article did occur, that decision, along with the city council's reasons for finding a violation and the administrative penalty to be imposed under this section, shall be recorded in writing, a copy of which shall be provided to the violator. Likewise, if the city council finds that no violation occurred or finds grounds for not imposing any administrative penalty, such findings shall be recorded and a copy provided to the alleged violator.

(b) Individuals age 21 and over found to be in violation of this article shall be charged an administrative fee in the amount established by chapter 26. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before the city council. A decision that a violation has occurred must be in writing.

(c) Persons under the Age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products may only be subject to non-criminal, non-monetary civil penalties such as tobacco-related

Commented [PHLC30]: These penalties could be strengthened and the revocation of a license could be mandatory upon a 4th violation to ensure compliance. This sample language closely parallels the legislation currently pending before the Minnesota Legislature to raise the minimum legal sales age to 21:

Licensees. Any licensee found to have violated this ordinance, or whose employee violated this ordinance, will be charged an administrative fine of $300 for a first violation; $600 for a second offense at the same licensed premises within a 36-month period; and $1,000 for a third or subsequent offense at the same location within a 36-month period. Upon the third violation, the license will be suspended for a period of not less than 30 consecutive days and may be revoked. Upon a fourth violation, the license will be revoked.

Commented [PHLC31]: As noted above, regarding removal of penalties for purchase/use/possession, this is a licensing ordinance and appropriately focuses on the sales of the products. Penalties for underage persons should be non-criminal and non-monetary. If PUP penalties are removed, then the only way an underage person may violate this ordinance is by using a false ID or as an employee of a licensed retailer. For these violations, alternative penalties may be considered. (See new paragraph below.)
education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The City Council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

Sec. 18-67980. - Exceptions and defenses.

(a) Religious, spiritual or cultural ceremony. Nothing in this article shall prevent the providing of tobacco, tobacco products or tobacco-related devices to a person under 21 minor as part of a lawfully recognized religious, spiritual, or cultural ceremony.

(b) Reliance on proof of age. It shall be an affirmative defense for a person to have reasonably relied on proof of age as described by Minn. Stat. § 340A.503, subd. 6.

Secs. 18-681—18-703. - Reserved.

DIVISION 2. - LICENSE

Sec. 18-704. - Required; application; non-transferability; renewals; other requirements.

(a) Required. No person shall sell or offer to sell any tobacco, tobacco products or tobacco-related devices licensed product without first obtaining a license from the city.

(b) Application. An application for license to sell tobacco, tobacco products or tobacco-related devices licensed products shall be made on a form provided by the city clerk. 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, the name of the proposed license holder, the location of the proposed business, and a copy of the educational materials the applicant intends to use to educate employees, and any additional information the city clerk deems necessary. The completed application and fee shall be submitted to the city clerk for approval. If the city clerk determines that an application is incomplete, it shall be returned to the applicant with notice of the deficiencies.

(c) Reserved.

(d) Transfers. All licenses issued pursuant to this division shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location shall be valid without the prior written approval of the city clerk.
(e) **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 division.

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

(g) **Renewals.** The renewal of the license issued under this article shall be processed 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. The issuance of a license under this article shall be considered a privilege and not a right of the applicant, and shall not entitle the holder to automatic renewal of the license.

(h) **Instructional program.** No person shall be issued a license or renewal license to sell tobacco-related licensed products unless an applicant or license holder has a program for instructing all employees regarding the legal requirements pertaining to the sale of tobacco licensed products at the business premises for which the license was issued. The instructional program shall include, but not be limited to, reviewing the law on the sale of tobacco licensed products and requiring employees to request identification from every customer who is under 27-30 years of age. The training shall include information that the sale of tobacco licensed products to persons under 21 is illegal, explanation of what proof of age is legally acceptable, and that a sale to a person under 21 can subject the applicant or license holder and their employees to criminal and/or civil liability.

(i) **Sampling.** Sampling of tobacco, tobacco products, tobacco-related devices or nicotine delivery devices licensed products shall not be permitted within the indoor area of any establishment with a retail tobacco license.

(j) **Storage.** All tobacco, tobacco products, tobacco related devices or nicotine delivery devices 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.

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**Sec. 18-705. - Fees.**

The license fee is set by chapter 26 of this Code.

**Sec. 18-706. - Basis for denial of license.**

The following shall be grounds for denying the issuance of or renewal of a license. The following list is not exclusive of the grounds for denial:

1. The applicant is under the age of 18-21 years of age.
(2) The applicant or license holder has had a license to sell tobacco, tobacco products or tobacco-related devices revoked anywhere within the preceding 12 months of the date of application, or is subject to penalties under section 18-679.

(3) The applicant or license holder fails to provide any information required on the application, or provides false or misleading information.

(4) The applicant or license holder is prohibited by federal, state, or other local law, ordinance or regulation from holding such a license.

(5) The applicant or license holder has outstanding fines, penalties, or property taxes owed to the county or to the city.

DIVISION 3. - 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.

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

This amendment is in accordance with the Federal Food, Drug and Cosmetic Act (Tobacco Control Act), raising the minimum age of the sale of any tobacco product, including cigarettes, cigars and e-cigarette products from 18 to 21 years.

SECTION 3. EFFECTIVE DATE. This ordinance shall become effective upon publication.

Approved: _________________________

Published: _________________________

____________________________________
Christy Wilcox, City Clerk

Commented [PHLC34]: A severability clause is important because it ensures that if for any reason one provision of the ordinance were to be challenged in court and struck down the remainder of the ordinance would remain in effect.

Commented [PHLC35]: The correct citation for the federal tobacco 21 law is the Family Smoking Prevention and Tobacco Control Act ("Tobacco Control Act") which was amended by Congress and signed into law by Pres. Trump on Dec. 19, 2019.