



## Legislation Text

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**File #:** 19-804B, **Version:** 1

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### **CITY COUNCIL AGENDA ITEM**

#### **ACTION REQUESTED:**

Pass the ordinance amending Sections 3-3-5, 3-3-14 and 3-3-15 of the Naperville Municipal Code by prohibiting anyone under the age of 21 from possessing tobacco or alternative nicotine products.

**DEPARTMENT:** Legal Department

**SUBMITTED BY:** Jennifer Lutzke, Senior Assistant City Attorney

#### **BOARD/COMMISSION REVIEW:**

On June 6, 2019, the Liquor Commission unanimously recommended prohibiting anyone under the age of 21 from possessing tobacco and alternative nicotine products.

#### **BACKGROUND:**

On July 1, 2019, Public Act 101-002 became effective, which raised the minimum age to purchase tobacco products to 21 years. Public Act 101-002 no longer regulates the possession of tobacco by minors of any age. Prior to this change in the state law, on December 5, 2016, the Mayor and City Council approved a text amendment to the City's Code prohibiting the sale of tobacco or alternative nicotine products to persons under the age of 21. At that time, no change was made concerning possession of tobacco products due to concerns about regulating personal decisions for legal adults and challenges of enforcement. The City's Code currently prohibits anyone under the age of 18 from possessing tobacco or alternative nicotine products.

#### **DISCUSSION:**

Following the change in the state law, the Liquor Commission considered whether to make all regulations regarding tobacco and alternative nicotine products apply to individuals under 21 years of age. This regulation would assist with enforcement in high schools by deterring 18-year-old students from bringing products to school to share with younger classmates; it would also provide the police department consistency concerning the regulation of tobacco products. Individuals who are caught buying or possessing tobacco will be fined \$100-200 for their first offense; \$150-250 for their second offense; \$250-350 and 10 hours of community service for their third offense; and \$350-750 and 30 hours of community service for each subsequent offense. Individuals are also required to complete a tobacco education program for each offense. In 2018, the police department issued thirty-eight citations for possession of tobacco or alternative nicotine products by minors in schools.

The Liquor Commission unanimously recommended that the City Council approve the text amendment. Draft minutes from the June 6, 2019 Liquor Commission meeting are attached.

In addition to the proposed text amendments, staff recommends adopting additional minor, technical edits to code language that staff identified during their preparation of the ordinance to increase clarity

and enforceability of existing regulations.

On August 20, 2019, City Council conducted the first reading of the proposed amendments. City Council directed that this item be bifurcated and considered separately from the regulations concerning kratom.

**FISCAL IMPACT:**

N/A