



**CITY COUNCIL WORK SESSION**  
**City Hall—Shared Vision Room, 3989 Central Ave NE**  
**Monday, April 01, 2024**  
**5:30 PM**

**Mayor**  
*Amada Márquez Simula*  
**Councilmembers**  
*Connie Buesgens*  
*Kt Jacobs*  
*Rachel James*  
*Justice Spriggs*  
**Interim City Manager**  
*Kevin Hansen*

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## **AGENDA**

### **ATTENDANCE INFORMATION FOR THE PUBLIC**

Members of the public who wish to attend may do so in-person, or by using Microsoft Teams and entering **meeting ID 278 254 427 462** and passcode **pfepBS**. Auxiliary aids or other accommodations for individuals with disabilities are available upon request when the request is made at least 72 hours in advance. Please contact Administration at 763-706-3610 to make arrangements.

### **CALL TO ORDER/ROLL CALL**

### **WORK SESSION ITEMS**

- 1. Executive Session: Discussion of Labor Negotiation Strategy. Closed per Minn. Stat. 13D.03. (20 Minutes)**  
ATTENDANCE INFORMATION: Move to recess to Closed Session pursuant to Minnesota Statutes Section 13D.03, members of the public will not be able to attend the executive session portion of the meeting. For questions regarding this notice, please contact City Administration at 763.706.3610.
- 2. MnDOT / Metro Transit update of Central Avenue. (30 Minutes)**
- 3. Presentation and Discussion on Proposals for Public Safety Funding Expenditures. (30 Minutes)**
- 4. Winter Parking and Snow Plowing. (20 Minutes)**
- 5. Massage Therapy Licensing. (20 Minutes)**
- 6. Update to 9.106 General Development Standards to Include Tree Preservation. (10 Minutes)**
- 7. Discussion on Park Dedication. (10 Minutes)**
- 8. Council Corner. (10 Minutes)**  
Updates from council regarding schedules, information sharing and priorities for continued education.
  - a. Updating Chapter 8 Public Health and Safety, Article I: Animals to Address Urban Chickens.**

**9. Old Buisness. (5 Minutes)**

Follow up from Interim City Manager on items needing further resolution from the March Work Session.

**ADJOURNMENT**

**CITY COUNCIL WORK SESSION MEETING**

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

ITEM:	Executive Session: Discussion of Labor Negotiation Strategy. Closed per Minn. Stat. 13D.03.		
DEPARTMENT: Administration / Public Works		BY/DATE: Kevin Hansen 3/25/2024	
<b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i>			
X Healthy and Safe Community		_Thriving and Vibrant Destination Community	
_Equitable, Diverse, Inclusive, and Friendly		X Strong Infrastructure and Public Services	
_Trusted and Engaged Leadership		_Sustainable	

**CLOSED EXECUTIVE SESSION SCRIPT:**

May I hear a motion to close the executive session to discuss Agenda Item 1 pursuant to Minnesota Statute 13D.03?

- Is there a second?
- I have a motion by Councilmember \_\_\_\_\_
- And a second by Councilmember \_\_\_\_\_
- All in favor? Any opposed? That motion carries.
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At this time I will close the meeting pursuant to Minnesota Statute 13D.03 so the Council can discuss upcoming labor negotiation strategy.

At this time I will ask all attendees to leave the room. I will also note that at the conclusion of this closed session we will resume the regular work session meeting.

Now that the discussion for Agenda Item 1 is completed, can I hear a motion to reconvene the open session?

- Is there a second?
- I have a motion by Councilmember \_\_\_\_\_
- And a second by Councilmember \_\_\_\_\_
- All in favor? Any opposed? That motion carries.

We will now reconvene the open session.

**CITY COUNCIL WORK SESSION MEETING**

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

ITEM:	MnDOT - Central Avenue Future Planning And Funding.		
DEPARTMENT: Public Works		BY/DATE: Interim City Manager / March 26, 2024	
<b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i>			
<input type="checkbox"/> Healthy and Safe Community		<input type="checkbox"/> Thriving and Vibrant Destination Community	
<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly		<input checked="" type="checkbox"/> Strong Infrastructure and Public Services	
<input type="checkbox"/> Trusted and Engaged Leadership		<input type="checkbox"/> Sustainable	

**BACKGROUND:**

The Minnesota Department of Transportation (MnDOT) has spearheaded a comprehensive planning study over approximately the past four years, encompassing Central Avenue and University Avenue. The finalization of the report for this study is anticipated by May.

Concurrently, Metro Transit is actively engaged in the design phase of a new bus rapid transit line, known as the F Line, slated to traverse Columbia Heights via Central Avenue. Initially projected to commence construction in 2026, the F Line represents a significant transit initiative.

Collaboratively, MnDOT, Metro Transit, and the City of Columbia Heights are diligently working together to delineate the future trajectory of Central Avenue.

**SUMMARY OF CURRENT STATUS:**

Chris Bower, MnDOT North Area Engineer, and Alicia Valenti, Metro Transit Senior Project Coordinator, have been invited to share a strategy for next steps on improving Central Avenue.

**STAFF RECOMMENDATION:**

None – information only.

<b>RECOMMENDED MOTION(S):</b>
None – information / discussion only.



## CITY COUNCIL WORK SESSION MEETING

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

<b>ITEM:</b>	<b>Presentation and discussion on proposals for Public Safety Funding expenditures.</b>		
<b>DEPARTMENT:</b> Police and Fire		<b>BY/DATE:</b> Captain Erik Johnston, March 27 <sup>th</sup> , 2024	
<b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i>			
_Healthy and Safe Community		_Thriving and Vibrant Destination Community	
_Equitable, Diverse, Inclusive, and Friendly		x_Strong Infrastructure and Public Services	
_Trusted and Engaged Leadership		_Sustainable	

### BACKGROUND:

In December, 2023 the city of Columbia Heights received \$956,556 in state funding for public safety purposes under the following conditions:

- A county, Tribal government, or local unit must use the aid under this section to provide public safety, including but not limited to community violence prevention and intervention programs, community engagement, mental health crisis responses, victim services, training programs, first responder wellness, or to pay other personnel or equipment costs.
- Proceeds **may not** be used for employer contributions to the public employee's police and fire fund if the entity received police state aid in the year immediately prior, or any costs associated with alleged wrongdoing or misconduct.
- Proceeds **may not** be used for the purchase of an armored or tactical vehicle.
- Proceeds **may not** be used for the purchase of tear gas, chemical munitions, or substantially similar items.
- Proceeds **may not** be used for construction, reconstruction, remodeling, expansion, or improvement of a police station, including related facilities. For purposes of this clause, "related facilities" includes access roads, lighting, sidewalks, and utility components on or adjacent to the property on which the police station is located that are necessary for safe access to and use of the building.

Leadership from the police and fire departments have worked together to prepare recommendations based on department needs and in line with the funding goals. We will present these recommendations to the council and seek direction on next steps.

### SUMMARY OF CURRENT STATUS:

A presentation will be made on funding recommendations.

### STAFF RECOMMENDATION:

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<b>RECOMMENDED MOTION(S):</b>
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MOTION: No motion
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**ATTACHMENT(S):**

none

**CITY COUNCIL WORK SESSION MEETING**

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

ITEM:	Winter Parking and Snow Plowing.		
DEPARTMENT: Public Works		BY/DATE: Interim City Manager / March 27, 2024	
<b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i>			
<input type="checkbox"/> Healthy and Safe Community		<input type="checkbox"/> Thriving and Vibrant Destination Community	
<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly		<input checked="" type="checkbox"/> Strong Infrastructure and Public Services	
<input type="checkbox"/> Trusted and Engaged Leadership		<input type="checkbox"/> Sustainable	

**BACKGROUND:**

The relationship between snow plowing, snow removal and winter parking have come up in discussions with the Council from time to time. In 2023 changes were made to the established beginning and ending times shortening the time period for enforcement. As this was the first year – staff suggested this be done on a pilot project basis and evaluate the effectiveness of the change. Attached please find a report from Captain Johnston providing data on the 2023/24 snow season to date.

**SUMMARY OF CURRENT STATUS:**

Our snow plowing and snow removal operations is detailed in the City's Snow and Ice Control Policy, attached. It provides the who/what/when/where for our winter operations. Our manpower and type of equipment are directly related to the process we have established for winter operations providing the high level of service to the community.

Last fall, Councilmember Spriggs had some questions related to parking/enforcement/snow triggers for our operations, and what other Cities do. Attached is his email and staff's response. Also attached is a survey of other Cities winter parking ban. Councilmember Spriggs had asked that this item be placed on a future work session for Council discussion.

**STAFF RECOMMENDATION:**

None – discussion only.

<b>RECOMMENDED MOTION(S):</b>
None – information / discussion only.



## Winter Parking Season 2023-2024

## Background

Current city ordinance prohibits parking vehicles on city streets between 2am and 6am between November 1<sup>st</sup> and March 31<sup>st</sup>. Additionally, parking on city streets is prohibited when there is 3 1/2" or more of snow until the streets have been plowed curb to curb (note: the city ordinance has 3" in some places and 3 1/2" in others and should be clarified).

The police department views our role as supporting Public Works plowing and street clearing operations through the enforcement of parking regulations and towing vehicles during snow events. Many of the snow events in which Public Works deploys snow removal crews do not involve 3 1/2" of snow so having the benefit of fewer vehicles on road during the overnight hours significantly aids in snow removal operations.

## Changes Made for the 2023-2024 Season

As a pilot project the police department worked with the mayor (on behalf of the city council) to try out shortening the parking enforcement period. For the 2023 -2024 season parking enforcement was not started until November 15<sup>th</sup> and ended on March 15<sup>th</sup>, shortening the period for two-weeks on each end. This change was advertised through social media and via postcards placed on vehicles.

The 2023-2024 season saw record low amounts of snow and snow removal events which makes the impact of this change hard to evaluate from a police and public works standpoint. Public Works did note there was an early snow event in October in which there were a high number of vehicles on the road making snow removal challenging.

## Permit Results

Season	Approved	Denied
2022-2023	213	90
2023-2024	243	99*

Below is a breakdown of the denials for the 2023-2024 season. During this season the police department accepted all applications for review, and then evaluated them based on our established criteria. Reasons that may result in denial include:

- Having enough off-street parking based on the number of vehicles and drivers.
- Not a Columbia Heights resident (based on vehicle and driver's license address)
- No season-long permits for visitors (unless caregiver, e.g, nurse)
- Rental property is given higher scrutiny with an expectation that parking is provided by the landlord.

*\* Items of note in the denial analysis:*

- The denials involved 99 vehicles at 71 unique addresses.
- Of those 71 addresses 20 had at least one permit approved (they had applied for more than one vehicle permit)
- 51 addresses were denied any permits and 28 of those were identified as rental.
- Having enough space was the most common reason for permit denial.

ADDRESS	RENTAL	Approved	Denied	Total	Denial Reason
1041 49TH AVE NE	N	0	3	3	Enough space
1202 44TH AVE	N	0	1	1	Enough space
1214 43RD AVE NE	N	0	5	5	Enough space
1220 42 1/2 AVE NE	N	0	1	1	Enough space
1229 44TH AVE NE	N	0	1	1	Does not register to address
1306 45 1/2 AVE NE	Y	0	2	2	Enough space
1450 47TH AVE	Y	0	1	1	Rental
1655 40TH AVE NE	Y	0	1	1	Enough space
3720 PIERCE ST	N	0	1	1	Enough space
3723 JACKSON ST	N	0	3	3	Enough space
3811 2 1/2 ST NE	N	0	1	1	Enough space
3859 TYLER ST	N	0	2	2	Enough space
3916 2ND ST NE	Y	0	2	2	Rental
3923 MAIN ST NE	Y	0	1	1	Does not register to address
3939 TYLER ST NE	Y	0	2	2	Enough space
3977 QUINCY ST	N	0	1	1	Enough space
4023 6TH ST NE LOWER	N	0	2	2	Enough space
4050 4TH ST NE	Y	0	1	1	Does not register to address
4060 4TH ST NE # 104	Y	0	1	1	Enough space
4120 4TH ST NE	Y	0	1	1	Rental
4208 WASHINGTON ST NE	Y	0	1	1	Enough space
4221 QUINCY ST NE	N	0	1	1	Does not register to address
4226 4TH ST NE	Y	0	3	3	Rental
4229 CENTRAL AVE NE # 8	Y	0	1	1	Rental
4314 JEFFERSON ST NE	N	0	1	1	Enough space
4326 MADISON ST NE	N	0	1	1	Enough space
4358 3RD ST NE	Y	0	1	1	Enough space
4411 MADISON ST NE	N	0	1	1	Enough space
4415 MAIN ST NE	N	0	1	1	Enough space
4426 JACKSON ST NE	Y	0	1	1	Enough space
4513 TAYLOR ST	Y	0	1	1	Does not register to address
4522 5TH ST NE	Y	0	2	2	Enough space
4545 MADISON ST NE #2	Y	0	1	1	Rental
4605 POLK ST NE	Y	0	1	1	Enough space
4631 PIERCE ST NE	N	0	1	1	Enough space
4635 WASHINGTON ST NE	Y	0	1	1	Does not register to address
4641 TAYLOR ST NE	Y	0	1	1	Enough space
4644 PIERCE ST NE	Y	0	1	1	Junk Vehicle - not legal to park
4650 JOHNSON ST NE	Y	0	1	1	Rental
4707 UNIVERSITY AVE NE	Y	0	1	1	Rental
4800 JEFFERSON ST NE	N	0	1	1	Enough space
4850 MADISON ST	N	0	1	1	Enough space
4900 4TH ST NE	Y	0	2	2	Enough space
4922 4TH ST NE	N	0	1	1	Enough space
5000 JEFFERSON ST	N	0	1	1	Enough space
502 37TH AVE NE UNIT B	Y	0	3	3	Minneapolis Address
5103 6TH ST NE	Y	0	1	1	Enough space
636 40TH AVE NE	Y	0	1	1	Enough space
800 42ND AVE	N	0	1	1	Enough space
909 GOULD AVE NE	Y	0	5	5	Rental
3732 2ND ST NE	N	1	1	2	Enough space
3800 3RD ST NE	Y	1	1	2	Enough space
3828 JACKSON ST NE	Y	1	1	2	Does not register to address
4105 4TH ST NE	Y	1	1	2	Enough space
4220 VAN BUREN ST NE	Y	1	1	2	Enough space
4257 5TH ST NE	N	1	1	2	Enough space
4330 3RD ST NE	Y	1	2	3	Does not register to address
4404 MADISON ST NE	Y	1	1	2	Enough space

4413 2ND ST	N	1	1	2	Enough space
4437 4TH ST NE	N	1	1	2	Enough space
5136 4TH ST NE	N	1	2	3	Enough space
627 51ST AVE NE	Y	1	1	2	Enough space
665/667 51ST AVE NE	N	1	2	3	Enough space
1342 45TH AVE NE	Y	2	1	3	Does not register to address
3828 2ND ST NE	Y	2	1	3	Enough space
4201 2ND ST NE	N	2	1	3	Does not register to address
4255 MONROE ST NE	N	2	1	3	Enough space
4441 MAIN ST NE	N	2	1	3	Enough space
4624 WASHINGTON ST NE	Y	2	2	4	Enough space
5101 6TH ST NE	Y	2	1	3	Does not register to address
3919 TYLER ST NE	N	4	2	6	Enough space

### Citation and Tow Results

Below is a summary of the citation numbers as well as the towing numbers for each season. For the 2023-2024 season the officers were redirected off the parking details during parts of January and February in response to a significant increase in overnight break-ins of vehicles.

Season	2-6 am citations	Snow event tows
2020-2021	1155	4
2021-2022	431	30
2022-2023	958	31
2023-2024	838	1

### Notes on parking fines:

- 2-6am Parking citations in Columbia Heights are currently \$25 and the amount has not changed for over 20 years.
- Nearby cities charge the following fine amounts:
  - Fridley: \$35
  - Coon Rapids: \$35
  - Blaine: \$45
  - Champlin: \$30 plus court fees
  - New Brighton: \$25 plus court fees
- With a fine amount of \$25, 1000 citations would represent up to \$25,000 in fine revenue. These fines are directed to the city general fund and are not allocated to the police department.
  - Staff expense to issue the citations is approximately 20-30% of fine revenue.
- There is currently no cost to apply for or receive a parking permit and there is significant staff time involved.
- Overnight parking is allowed in the city owned Van Buren ramp, and there is no fee or permit required.

# **CITY OF COLUMBIA HEIGHTS**

## **PUBLIC WORKS DEPARTMENT**

### **SNOW AND ICE CONTROL POLICY**



## **2023/2024**



## SNOWPLOWING AND ICE CONTROL POLICY

### 1. Introduction:

The City of Columbia Heights believes that it is in the best interest of the residents for the City to assume basic responsibility for control of snow and ice on city streets. Reasonable ice and snow control is necessary for routine travel and emergency services. The City strives to provide such control in a safe and cost effective manner, keeping in mind safety, budget, personnel and environmental concerns. The City will use city employees, equipment and /or private contractors to provide this service. This policy does not relieve the operator of private vehicles, pedestrians, property owners, residents and all others that may be using public streets of their responsibility to act in a reasonable, prudent and cautious manner, given the prevailing street conditions.

The City of Columbia Heights has a winter parking ordinance. This ordinance makes it unlawful to park any vehicle on any street within the City between the hours of 2:00 and 6:00 AM from November 1 through March 31 unless a parking permit has been issued for that vehicle. All parking permits are subject to suspension for snow removal or other emergencies.

Furthermore, no parking is allowed on city streets after a 3" snowfall until the street is plowed curb-to-curb.

### 1. When will city start snow and ice control operations?

The Director of Public Works or assigned representative will decide when to begin snow or ice control operations. The criteria for that decision are:

- A. Snow accumulation of three (3) inches or more;
- B. Drifting of snow that causes problems for travel;
- C. Icy conditions which seriously affect travel;
- D. Time of snowfall in relationship to heavy use of streets;
- E. Weather forecast, temperature, type of snow, duration and intensity of storm

The Police Department assists Public Works Maintenance in monitoring street conditions and notifies Public Works Maintenance personnel of snow and ice conditions needing immediate attention. Maintenance personnel are notified in accordance with the Public Works Department policy for emergency calls.

### 2. How snow will be plowed?

Snow will be plowed in a manner so as to minimize traffic obstructions. The center of the roadway will be plowed first. The snow shall then be pushed from centerline to curb on two-way streets. On one-way streets or where there is a center boulevard, snow may be pushed in either direction. Discharge shall go onto the boulevard area. Generally, operations shall continue until all roads are passable. There may be instances when this is not possible depending on storm conditions and other circumstances.

### **Priorities and schedule of streets plowing and snow removal.**

The city has classified city streets based on the street function, traffic volume and importance to the welfare of the community. Some priorities are performed simultaneously depending on conditions and existing situations.

**Priority #1** - Main thoroughfares, low volume residential and commercial streets, Public Safety building parking lots and accesses, alleys, cul-de-sacs, dead ends, pump and lift station accesses.

**Priority #2** - Municipal building parking lots and sidewalks, pedestrian bridges, designated sidewalk routes.

**Priority #3** - (Business District, parking lots, widening streets, etc.) Snow removal as needed.

**Priority #4** - Central Avenue (streetscape district only - 37<sup>th</sup> to 43<sup>rd</sup> Avenues). Snow removal around bus benches as needed

**Priority #5** - Park pathways, skating rinks and hockey rinks

**Priority #6** - Industrial and school hydrants – snow removal as needed

**Priority #7** - Residential hydrants – snow removal as needed – Assist Adopt-a-Hydrant Program.

**Priority #8** - Murzyn Hall, City Hall, Library. Check for plugged drains and open as needed.

During significant and severe storms, the city must be prepared to move personnel and equipment to maintain priority routes first. In fulfilling the need to have all priority streets safe and passable, when resources are limited, plowing of all other streets may be stopped at any time so resources can be shifted to priority routes.

Unforeseeable circumstances may cause delays in completing assigned plow routes. Such circumstances may include weather conditions that endanger the safety of snowplow operators and/or safe and effective operation of equipment, commuter traffic, disabled vehicles, poor visibility conditions, parked cars along streets, assistance to emergency response vehicles, equipment breakdown, and personnel shortages.

### **3. Snow Removal**

The Director of Public Works or assigned representative will determine if and when snow will be removed from the area by truck. Such snow removal will occur in areas where there is no room on the boulevard for snow storage and in areas where accumulated piles of snow create a hazardous condition. Snow removal operations will not commence until other snowplowing operations have been completed. Snow removal operations may also be delayed depending on weather conditions, personnel and budget availability. The snow will be removed and

hauled to a snow storage area. The snow storage area will be located so as to minimize environmental problems.

#### **4. Work schedule for snowplow operators.**

Snow plow operators will be expected to work eight-hour shifts. In severe snow emergencies, operators sometimes have to work in excess of eight – hour shifts. Safety of the plow operators and the public is important. Therefore, if additional qualified snow plow operators are not available snow plowing/removal operations may be terminated after 12 hours to allow personnel adequate time for rest. Any decision to suspend operations shall be made by the Director of Public Works and shall be based on the conditions of the storm.

#### **5. Traffic Regulations**

The city recognizes that snowplow operators are exempt from traffic regulations set forth in Minnesota Statutes, Chapter 169 while actually engaged in work on streets, except for regulations related to driving while impaired and the safety of school children. Pursuant to this authority, snowplow operator engaged in snow removal or ice control on city streets have discretion to disregard traffic laws set forth in Chapter 169, except for laws relating to impaired driving and school children safety, when in their judgment, it is safe to disregard such laws. The privileges granted herein to operators of snow removal and ice control vehicles shall apply only if the vehicle is equipped with one lighted lamp displaying a flashing, oscillating, or rotating amber light placed in such a position on the vehicle as to be visible throughout an arc of 360 degrees.

#### **6. Weather Conditions**

Snow and ice control operations will be conducted only when weather conditions do not endanger the safety of the snowplow operators and equipment. Factors that may delay snow and ice control operations include but are not limited to: severe cold, significant winds, and limited visibility.

#### **7. Use of Sand, Salt, and other Chemicals**

The city will use sand, salt, and other chemicals when there area hazardous ice or slippery conditions. The city is concerned about the effect of such chemicals on the environment and will limit its use for that reason.

#### **8. Sidewalks**

The city will maintain some of the sidewalks in the city. The list of those sidewalks is attached. It is the responsibility of the resident and/or property owner to remove all accumulated snow from all other sidewalks along public streets adjoining their property. This includes any snow plowed from public streets onto the sidewalk.

## **9. Mailboxes**

Coming into contact with a mailbox is a common obstacle snowplow operators face during storm activities. The city will conduct a review of each mailbox incident to determine whether the city will replace or provide reimbursement for the mailbox. Only mailboxes actually hit by a snowplow will be the responsibility of the city. The city will not be responsible for damage to mailboxes or support posts caused by snow or ice coming into contact the mailbox. At the mailbox owner's request, the city will replace the mailbox with a standard size, non-decorative metal mailbox and replace the support post as necessary with a 4"x 4", decay resistant wood support post, both installed by the city. Alternatively, the city will reimburse the mailbox owner \$75.00 for the replacement of the mailbox and post by others.

## **10. Landscape**

The city will not repair/replace sod damaged due to the application of sand, salt or other deicing chemicals.

The city will repair sod damaged by snow plow during snow removal operations with black dirt and grass seed.

Property owners who install decorative materials in the right-of-way do so at their own risk. Damage within the public right-of-ways is the responsibility of the property owner, including but not limited to: trees, shrubs, bushes, landscape materials, decorative rock, retaining walls, fences and irrigation systems.

## **11. Deviation From Policy**

The Director of Public works or appointed representative may deviate from this policy when in his or her judgment it is in the best interest of the city or is necessary because of budget needs or other circumstances. Changes in priorities (lasting more the 4 hours ) will be documented as to what caused such actions, why the change was necessary, and for how long the change is to be in effect. Those city employees and/or contractors affected will be notified immediately by radio or cell phone of such changes with all communications logged. Information logged will include the time and date of the communication, name of the employee contacted, and how they were contacted. Any changes of priorities lasting more that 24 hours should be made in a written record and the public should be informed of such changes through normal methods used by the city for emergency notifications.

## **12. Complaint Procedures**

Complaints will be recorded on telephone logs. Calls requiring service will be transferred to a work request and forwarded to the appropriate supervisor for scheduling. Emergency complaints will be handled in an expeditious manner as resources are available.

### **13. Driveways**

One of the most frequent and challenging problems during snow removal from public streets is the snow deposited in driveways during plowing operations. Snow accumulated on the plow blade has no place to go but in the boulevard areas, which includes driveways. The snow plow operators make every attempt to minimize the amount of snow deposited in driveways but the amount can still be significant. Regardless, the City does not possess resources to attempt to provide private driveway cleaning after plowing public roads.

### **14. Access to Mail Boxes**

The snow plow operators make every effort to remove snow as close to the curb line as practical and to provide access to mailboxes for the postal service. However, it is not possible to provide perfect conditions and minimize damage to mailboxes due to the size and type of equipment the City operates. Therefore, the final clearing adjacent to mailboxes is the responsibility of each resident and subject to the delivery requirements of the United States Postal Service.

### **15. Review and Modification of Policy**

The Director of Public Works or appointed representative shall keep on file all comments and complaints received regarding this policy. The policy will be reviewed periodically. Any review will consider comments and complaints since the last review and any other factors affecting the policy or its implementation.

## **PLOWING EMERGENCY - PERSONNEL & EQUIPMENT**

### A. Assignments by department

1. The **Street Department** shall remove snow according to the following priorities:
  - a. Assign personnel as necessary for street plowing and ice control operations.
  - b. Remove snow from main thoroughfares and apply salt and/or sand.
  - c. Remove snow from residential streets and alleys and apply salt and/or sand.
  - d. Remove snow from municipal parking lots.
  - e. Clean up alley openings, intersections and the deposits of snow left by windrows. Follow up on complaints from the public and others. Any personnel that become available will be assigned to help others wherever needed. They may have to widen streets again the next day.
  
2. The **Sewer and Water Department** shall remove snow according to the following priorities:
  - a. Furnish personnel as necessary for street plowing operations.
  - b. Plow entrances and areas around the water tower, pump houses, and lift stations.
  - c. Clean sidewalks and entrances at the Library before it opens and, if necessary, in the afternoon. Personnel shall assist others who are hand shoveling other areas.
  - d. Personnel shall assist the Fire Department in digging out hydrants as needed. Certain hydrants have been designated as critical and will witnessed by reflective hydrant markers.
  
3. The **Park Department** shall remove snow according to the following priorities:
  - a. Furnish personnel as necessary for street plowing operations.
  - b. Clear snow and deice all City Hall, Public Safety building, and JPM sidewalks and entrances. **Public Safety building:** For snow conditions of three (3) inches or more the Fire Department shall initially clear all doorways, stairs, and open the walks around the Public Safety Building. If there is only one person in the Fire Department, they will contact Public Works who will supply one person to help them. After all other work is accomplished; Public Works shall finish widening the walkways.

**JPM maintenance personnel:** Responsible for clearing snow from sidewalks and entrances on weekends, holidays and evenings.

  - c. Remove snow from municipal sidewalks.
    - Central Avenue and 49<sup>th</sup> Avenue - Pedestrian Bridge

- Public Safety Building
- City Hall and upper JPM parking lot
- Recreation and JPM – Mill Street sidewalk-front, back & side entrances
- Library – 3939 Central Avenue
- 900 40<sup>th</sup> Avenue (Van Buren Street – parking lot) - perimeter sidewalk
- 3982 Central Avenue – sidewalk on south side, Central Avenue to parking lot
- 4020 –4024 Central Avenue – sidewalk from Central Avenue to alley
- Jefferson Street Divide sidewalk (46<sup>th</sup> Avenue and Jefferson Street)
- Liquor Store Top Valu #1 - 4950 Central Avenue –Sidewalk on Central Avenue adjacent to street.
- Liquor Store Top Valu #2 - 2105 37<sup>th</sup> Avenue – Sidewalks on 37<sup>th</sup> Avenue & Hart Blvd. adjacent to street

**d. Remove snow from miscellaneous designated sidewalks.**

West side

- 49<sup>th</sup> Avenue, University Avenue to Monroe Street
- 5<sup>th</sup> Street, 47<sup>th</sup> – 48<sup>th</sup> Avenue, east side sidewalk
- Jackson Street, 41<sup>st</sup> Avenue to 42<sup>nd</sup> Avenue (east side)
- 42<sup>nd</sup> Avenue – Jackson Street to Van Buren Street (south side)
- Central Avenue 4022 and 4024 (between buildings)
- 42<sup>nd</sup> and University (walk bridge) west side
- 40<sup>th</sup> Avenue, University Avenue bus stop, 3<sup>rd</sup> Street to University Avenue
- 3942 Van Buren Street (storm water overflow area)

East Side

- 37<sup>th</sup> Avenue, north side, Reservoir Blvd. to first alley east
- 40<sup>th</sup> Avenue, Central Avenue to Hayes Street
- 44<sup>th</sup> Avenue (Tyler Street to Reservoir Boulevard)

**e. Remove snow from park sidewalks.**

- Huset east and west, Jefferson Street
- Jackson Pond, south end sidewalk
- Edgemoor Park, 2<sup>nd</sup> Street sidewalk
- Ostrander Park, Tyler Street sidewalk and front entrance sidewalk
- Wargo Park, exterior sidewalk
- Gateway Park, exterior and interior sidewalk

**f. Remove snow from park pathways.**

- Huset West pathway
- University Avenue Bike path – 40<sup>th</sup> to 45<sup>th</sup> Avenue

- McKenna Park pathway
- Sullivan Lake Park pathway
- Curt Ramsdell Park pathway
- Silver Lake Beach
- LaBelle Park pathway
- Prestemon Park pathway
- Keyes Park pathway
- 37<sup>th</sup> pathway
- Stinson Boulevard McKinley pathway

**g. Remove snow from sidewalks on Community Development properties.**

West side

- 3982 Van Buren Street
- 670 40<sup>th</sup> Avenue
- 828 40<sup>th</sup> Avenue
- 230 40<sup>th</sup> Avenue

East Side

- 3841 Central Avenue
- 4441 Central Avenue
- 1002 40<sup>th</sup> AVE

**h. Remove snow from skating areas and park parking lots.**

**i. Roof Maintenance JPM, City Hall, Library.**

- Unplug roof drains

4. The **Utilities Department** personnel shall hand-shovel the pedestrian bridge and spread deicer.
  - Furnish personnel as necessary for street plowing operations
  - 42<sup>nd</sup> and University Avenue (walk bridge)
5. The **Engineering Department** Techs shall remove snow and de-ice the walks and steps around the Municipal Service Center building, parking lots and assist the Sign Department in the removal of snow from the pedestrian bridge.



## **Drivable Equipment Used in Snow Emergencies:**

### **Heavy Equipment**

- #11 926M Caterpillar front-end loader with front plow (two stage snow blower - used for snow removal)
- #14 Caterpillar front-end loader with front plow and wing plow

### **Dump Trucks**

- #82 35,000 GVW International dump truck with reversible front plow, underbody plow, wing plow and sander. (NE Quadrant)
- #83 35,000 GVW International with reversible front plow, underbody plow, wing plow, and sander. (NW Quadrant)
- #84 35,000 GVW International with reversible front plow, underbody plow, wing plow, and sander. (Alley, and Parking Lots)
- #85 35,000 GVW Western Star 4700 dump truck with reversible front plow, underbody plow, wing and sander (SE Quadrant)
- #86 35,000 GVW Western Star 4700 dump truck with reversible front plow, underbody plow, wing and sander (SW Quadrant)
- #250 14,000 GVW Ford dump truck with front plow

### **Pickups**

- #008 4 x 4 1 ton Ford pickup with plow
- #102 4 x 4 V-plow
- #114 4 x 4 ¾ ton Ford pickup with plow
- #117 4 x 4 1 ton Ford pickup with plow
- #137 4 x 4 1 ton Ford pickup with plow
- #202 4 X 4 V-plow
- #234 4 x 4 1 ton Ford pickup with plow (designated for Park use)
- #181 4 x 4 1 ton Ford pickup with plow

### **Misc. Equipment**

- #200 MT Trackless
- #004 Hi Jet Mini Truck equipped with an adjustable V-plow
- #232 Toro Groundsmaster 4 x 4 (with broom attachment)
- #280 Caterpillar 247 Skid Steer (with snow bucket attachment)
- #296 MT Trackless (with snow blower, plow and broom)
- #040 272D3 CAT Skid loader with Kage Snow Fire plow
- #214 Ventrac Tractor

## **Street Plowing Routes**

Maps of main thoroughfares, quadrants, dead-end alleys and cul-de-sacs, thru alleys, parking lots and snow removal areas are available from the Engineering Department.

1. Main thoroughfares – Dump trucks assigned to quadrants

2. Quadrants SW, NW, SE, NE – dump trucks
3. Thru-alleys - #84 dump truck with adjustable V- plow
4. Dead-end alleys and cul-de-sacs – Pickups, Front End Loader and 1 ton dump trucks
5. Parking lots – Case front end loader (#11)
6. MSC, SACA, Library, load sand trucks backhoe Caterpillar (#128)
7. #14 front end loader – 37<sup>th</sup> Avenue to 40<sup>th</sup> Avenue from University to Central – Central Avenue from 37<sup>th</sup> Avenue to 43<sup>rd</sup> Avenue (bump outs and pork chops). 37<sup>th</sup> Avenue to 45<sup>th</sup> Avenue from Main Street to University Avenue.

### **Main Thoroughfares: Quadrants**

Four dump truck plows - each operator is assigned to a specific quadrant.

**SW Quadrant.** This area is from 37<sup>th</sup> Avenue to 45<sup>th</sup> Avenue (University Avenue to Central Avenue). Plow main thoroughfares first. 40<sup>th</sup> Avenue, 44<sup>th</sup> Avenue, and 45<sup>th</sup> Avenue (University Avenue, 45<sup>th</sup> to 42<sup>nd</sup>) and Jefferson Street. (40<sup>th</sup> Avenue to 45<sup>th</sup> Avenue)

**NW Quadrant** This area includes University Avenue to Central from 45<sup>th</sup> Avenue to 53<sup>rd</sup> Avenue exclusive of the City of Hilltop. Again, this quadrant has five main arterials to be plowed first, that being Jefferson Street; University Avenue Service Road; 49<sup>th</sup> Avenue, 51<sup>st</sup> Avenue and 53<sup>rd</sup> Avenue (**Fridley plows 53<sup>rd</sup> Avenue, Columbia Heights does ice control**). The operator in this quadrant will start on the west end one time and the east end another time in order to equalize the complaint of always being plowed last. When the operator has finished plowing their own area, they will combine to finish whatever area is not completed. Alternate starting points may be used each time.

**SE Quadrant.** This area includes 37<sup>th</sup> Avenue to 44<sup>th</sup> Avenue between Central Avenue and Stinson Boulevard. This quadrant has seven main arterials to be plowed first which include Reservoir Boulevard, 39<sup>th</sup> Avenue, 40<sup>th</sup> Avenue, Arthur Street, Hart Boulevard, Stinson Boulevard, 37<sup>th</sup> Place, and Benjamin Street (43<sup>rd</sup> Avenue to 45<sup>th</sup> Avenue). After the main arterial have been completed, plowing starts at Tyler Street from 37<sup>th</sup> Avenue N and then works avenues from 37<sup>th</sup> to 44<sup>th</sup>, then streets easterly to Stinson Boulevard. When this has been accomplished, the plow will work the streets between Central Avenue and Reservoir Boulevard. When the operator has finished plowing their own area, they will combine to finish whatever area is not completed. Alternate starting points may be used each time.

Note: We share the responsibility of plowing 37<sup>th</sup> Avenue from Stinson Boulevard to Main Street with the City of Minneapolis. 37<sup>th</sup> Avenue is divided into two segments - (1) Main Street to Central Avenue and (2) Central Avenue to Stinson Boulevard. Per agreement, we alternate segments each year. The agreement period is October 1st to October 1st. **For 2023/2024 Columbia Heights maintains 37<sup>th</sup> Avenue from Central Avenue to Stinson Boulevard.**

**NE Quadrant:** This area includes 44<sup>th</sup> Avenue to 51<sup>st</sup> Avenue from Central Avenue to Stinson Boulevard. This quadrant has main arterials to be plowed first which include 44<sup>th</sup>

Avenue, Central Avenue to Reservoir Boulevard; 45<sup>th</sup> Avenue, Central Avenue to 44<sup>th</sup> Avenue; 47<sup>th</sup> Avenue, Central Avenue to Fillmore; Fillmore, 45<sup>th</sup> to 49<sup>th</sup> Avenue; 49<sup>th</sup> Avenue, Central Avenue to Fairway Drive; Fairway Drive, West Upland Crest to Stinson Boulevard; Stinson Boulevard, Silver Lake Beach to Argonne Drive; Arthur Street, 44<sup>th</sup> Avenue to 45<sup>th</sup> Avenue; 45<sup>th</sup> Avenue, Chatham Road to Stinson Boulevard; Chatham Road, 45<sup>th</sup> Avenue to 49<sup>th</sup> Avenue; Reservoir Boulevard, 44<sup>th</sup> Avenue to Fillmore Street. We will either begin plowing Mathaire Addition or Sheffield Addition, depending on the time of day and the number of cars that could be in the Sheffield Addition. Whichever way, we will pick up the Hilltop Addition, Innsbruck Addition and the Heritage Heights Addition. When the operator has finished plowing their own area, they will combine to finish whatever area is not completed. Alternate starting points may be used each time.

### **Thru-Alleys**

The alley "V" plow is pushed by a dump truck. This plow usually starts on the west side of town being California Street to University Avenue, 37<sup>th</sup> to 45<sup>th</sup> Avenue and works its way east. Alternate starting points may be used each time. Equipment problems and weather conditions may require the use of 4-wheel drive vehicles to clear alleys.

### **Dead-end Alleys and Cul-de-Sacs**

The 4-wheel drive vehicle operators each receive a map showing all the cul-de-sacs, dead end alleys, and hard-to-get at places. When operators have completed their own designated areas, they will check with the other operators and will help each other finish plowing where needed.

They may assist the "V" plow operator in finishing his alley routes if assigned by the Superintendent. When alleys are finished, operators will clean intersections in their assigned area.

### **Parking Lots**

Plow route for #011 front-end loader:

1. Administration Building (590 40<sup>th</sup> Avenue), (559 Mill Street) and (555 Mill Street) lots.  
**Note:** Remove snow from 40<sup>th</sup> Avenue curb line from alley east to Mill Street.  
**Note:** 555 Mill Street parking lot can be used for temporary snow storage.  
**Note:** Plow Mill Street from 40<sup>th</sup> Avenue to 5<sup>th</sup> Street. Remove snow from curb line in front of JPM & City Hall.
2. JPM (530 Mill Street) upper and lower lots.
3. Van Buren lot south of 40<sup>th</sup> Avenue (900 40<sup>th</sup> Avenue).

### **Parking Lots**

Plow route for #181 – 4-wheel drive pickup

1. Public Safety Building (825 41<sup>st</sup> Ave.)
2. Madison Street – 37<sup>th</sup> Avenue to dead-end
3. SACA (627 38<sup>th</sup> Avenue)
4. Heights Liquor Store - 5225 University Avenue (Liquor Store #3)
5. Liquor Store Top Valu 1 - 4950 Central Avenue
6. Liquor Store Top Valu 2 - 2105 37<sup>th</sup> Avenue
7. Municipal Service center yard (637 38<sup>th</sup> Avenue) and parking areas.

### **ICE CONTROL**

When there is a potential for or accumulation of snow or ice, it is normally necessary to perform ice control operations using salt or a salt/sand mixture. This function will proceed under the discretion of the Public Works supervisor. This function begins with communication between the Police Department, Public Works personnel, and Anoka County Central Dispatch, in no special order.

The duty person organizes the ice control operation based on the Superintendent's standing instructions. Main thoroughfares, emergency routes, controlled intersections, and hills are given priority. Police reports of slippery conditions are also considered. Application is limited on low volume streets and cul-de-sacs.

Salt sand will be furnished for residents in the designated area outside the Recycling Center (3801 Madison Street).

### **SNOW REMOVAL**

Certain actions and areas were designated by the City Council on January 11, 1982, and amended from time to time, for services. These services are other than normal street plowing and ice control that the City may perform depending upon the amount of snow accumulation.

When accumulated piles of snow in the business areas, around schools, and public buildings indicate hazardous conditions, the Street Department begins loading and hauling to storage areas. Snow is to be hauled for storage to 1) Huset Park East- Quincy Street parking lot (Note: restricted to daytime use) and 2) Huset Park East –Huset Parkway parking lot.

### **Snow Removal at Library**

#### **A. Parking Lot:**

The Library parking lot will be cleared in accordance with the priorities established in this policy. The lot will be cleared in conjunction with the other municipal lots after snow plowing has been completed on the streets, Police and Fire areas and the pump and lift station accesses.

B. Sidewalks:

During the work week, two members of the Sewer & Water Department will remove snow and ice from the sidewalks and entrances to the Library before the Library opens and, if necessary, in the afternoon. Note that there is a snow melting system for the sidewalk at both entrances.

The weekend duty person will be responsible for clearing snow and ice from the sidewalks and entrances before opening of the Library on Saturday mornings (currently 10:00 a.m.). Library personnel are responsible for snow and ice clearing on Saturdays after opening and, if conditions warrant, may call out the weekend duty person for assistance.

## **PLOWING/ICE CONTROL INFORMATION**

1. 3" ACCUMULATION REQUIRED BEFORE SNOW EMERGENCY FULL CITY PLOWING
  - APPLY ICE CONTROL IN CONJUNCTION WITH PLOWING OPERATIONS
2. SNOW DEPTH 1" TO 3" – PLOW DRIVING LANES AND APPLY ICE CONTROL
3. FIRST PRIORITY - ARTERIALS AND RESIDENTIAL AREAS
4. ALLEY PLOWING:
  - THRU-ALLEYS PLOWED WITH "V" PLOW
  - DEAD END ALLEYS PLOWED WITH PICK-UPS
5. POLICE REQUEST FOR ICE CONTROL/SPECIFIC AREAS AND ARTERIALS
  - 1 OR 2 ICE CONTROL TRUCKS DEPENDING UPON EXISTING CONDITIONS
6. POLICE REQUEST FOR ICE CONTROL/CITY WIDE
  - 4 ICE CONTROL TRUCKS - STREETS ONLY (ARTERIALS FIRST FOLLOWED BY RESIDENTIAL)
  - ICE CONTROL OPERATIONS IN ALLEYS WILL BE CONDUCTED DURING NORMAL WORK HOURS
7. 53RD AVENUE FROM UNIVERSITY TO CENTRAL: FRIDLEY PLOWS - COLUMBIA HEIGHTS – ICE CONTROL
8. STINSON BOULEVARD FROM 37<sup>TH</sup> TO 40<sup>TH</sup>: ST ANTHONY PLOWS - COLUMBIA HEIGHTS ICE CONTROL
9. 37TH AVENUE MAINTENANCE:
  - MAIN STREET TO CENTRAL AVENUE
  - CENTRAL AVENUE TO STINSON BOULEVARD

SHARED BETWEEN THE CITIES OF COLUMBIA HEIGHTS AND MINNEAPOLIS ON A FIRST-COME FIRST-PLOW BASIS.

**SAND BARRELS****WEST SIDE:**

- Qty. 3 637 38<sup>th</sup> Avenue - outside of fence for Recycling Center.
- Qty. 1 Behind 4059 Monroe Street at NW corner of alley and 41<sup>st</sup> Avenue - next to utility pole.
- Qty. 1 4707 Jefferson Street - driveway north side - next to utility pole.
- Qty. 1 46-1/2 Avenue east of Jefferson - next to utility pole.

**EAST SIDE:**

- Qty. 1 Alley behind 3813-15 Pierce Street - next to hydrant.
- Qty. 1 4464 Stinson Boulevard – secured to pole.
- Qty. 1 41<sup>st</sup> Avenue and Stinson Boulevard on SW corner.

**From:** Kevin Hansen  
**Sent:** Thursday, November 30, 2023 5:01 PM  
**To:** Justice Spriggs <JSpriggs@columbiaheightsmn.gov>  
**Subject:** RE: 11/06/23 Draft City Council work Session Agenda

Justice:

I had not forgotten about this but sorry it took so long to get back to you. I did sit down with David Cullen and would like to provide the following (focused on all of the bullet points):

*Timeline Change: We sat down this summer and reviewed the request with the Mayor. I had suggested that we make the change only from an administrative perspective initially to be able to gauge the outcome/impact of removing effectively 4 weeks out of the time period – and then on that basis bring a recommended ordinance amendment to the Council for consideration – really getting a snow season under our belt for evaluation. But you are correct – to make permanent the Council does need to approve.*

*Thank you for raising this important question about the correlation between snowfall and our plowing operations. It's crucial to understand that while yearly snowfall data can indicate general trends, it doesn't always directly align with the specifics of city snow clearing operations. The primary weather station we rely on for data is located in Bloomington, and weather events can vary significantly even over short distances. This means that the data, which only reflects the day of snowfall, doesn't fully capture the nuances of our operations.*

*Our snow plowing operations are often more extensive than what the raw snowfall data might suggest. We will be out applying anti-icing (an ice bond break) prior to a forecasted event. Depending on the rate of accumulation, we will often plow/scrap main drags and hills in advance of a full snow plowing by City crews. After a snow event, plowing can take multiple days, and this is often followed by several days of additional snow clearing operations, especially if we're dealing with the aftermath of multiple storms. This extended effort is crucial for maintaining safe and navigable streets.*

*Given these operational realities, it's not to the benefit of the city to have cars parked on the streets during these operations. Cars significantly hinder our ability to efficiently and safely clear the snow. The correlation between parked cars and the quality of snow removal is a critical consideration in our operational planning. Our goal is to provide the best possible service to the community, and managing the challenges posed by parked cars is a key part of achieving this objective.*

*If I were to suggest any parking regulation changes, I would, based on my experience as a plow operator for the City of Columbia Heights, propose considering the triggering snowfall amount from 3-1/2 inches to 2 inches in the winter months. This would greatly enhance our ability to respond quickly and effectively to snow events, ensuring safer, equable, and more accessible streets for everyone.*

*Furthermore, to provide a firsthand understanding of the challenges and complexities of our snow-plowing operations, I would like to propose a ride-along for you!!! This experience would offer valuable first hand insights into the intricacies of our work and the impact of parked cars on our operations.*

*Thank you for bringing up the topic of exploring new ideas for snow plowing and parking, including practices like one-sided parking as seen in cities like Minneapolis and St. Paul. Before delving into the*



*specifics, I believe the most crucial question for the City Council is to determine where you place higher value: on street parking or efficient snow plowing. These two aspects are, in many ways, in opposition to each other, and understanding our priorities is key to making informed decisions.*

*Drawing from my personal experience as a long-time resident of Saint Paul, I have observed that snow plowing has been a contentious issue there. I recall instances from my childhood where deep snow ruts made navigating the streets challenging if not impossible, and in 2018, I experienced streets on the east side of Saint Paul becoming impassable due to inadequate plowing that multiple large motor graders were needed just to make the streets drivable after back-to-back 1.5" snow storms the fell underneath the city snow plowing trigger.*

*The challenge with one-sided parking and/or designated snow emergency routes is that plowing typically occurs several hours after a storm has ended. By then, the snow is compacted by vehicle traffic, making it difficult for plows to effectively remove it. This leads to a cycle of snow becoming hard-packed when the sun goes down , then loosened into thick, wet slush by deicing chemicals when the sun comes back up, only to be compacted again. This also can have an impact on accelerating the degradation of bituminous streets over time.*

*Additionally, our current fleet of plow trucks, equipped with rear wings and belly plows, is designed for our existing operations. These plows extend up to 12 feet from the passenger side of the dump truck , making them unsuitable for narrower, one-sided parking streets. Switching to one-sided parking would necessitate significant changes to our equipment and staffing, increasing costs and complexity.*

*Our current operations allow us to plow the entire city in under 8 hours for a 3-6 inch snowstorm. This efficiency has led to a noticeable decrease in complaints over the years. In fact, for some storms, we've received zero complaints city-wide – a remarkable achievement considering the volume of complaints we used to receive.*

*In conclusion, while it's valuable to consider new ideas and approaches, we must also recognize the successes of our current methods. Changing our approach could potentially be a step backward, reducing the efficiency and effectiveness of our snow removal operations. I believe it's essential to weigh these factors carefully before considering any significant changes to our current practices.*

Please let me know if I have answered your questions or you would like to discuss further – once we get some snow, I'll have David check on your availability for a ride along.

Sincerely,



**Kevin Hansen | Interim City Manager**

City of Columbia Heights | Administration

3989 Central Avenue NE | Columbia Heights, MN 55421

[khansen@columbiaheightsmn.gov](mailto:khansen@columbiaheightsmn.gov)

Direct: 763-706-3609 | Main: 763-706-3600

**From:** Justice Spriggs <[JSpriggs@columbiaheightsmn.gov](mailto:JSpriggs@columbiaheightsmn.gov)>  
**Sent:** Monday, November 6, 2023 1:32 PM  
**To:** Kevin Hansen <[KHansen@columbiaheightsmn.gov](mailto:KHansen@columbiaheightsmn.gov)>  
**Cc:** Aaron Chirpich <[AChirpich@columbiaheightsmn.gov](mailto:AChirpich@columbiaheightsmn.gov)>; Lenny Austin <[LAustin@columbiaheightsmn.gov](mailto:LAustin@columbiaheightsmn.gov)>  
**Subject:** Re: 11/06/23 Draft City Council work Session Agenda

My questions/comments are:

- I know the timeline of the winter parking ordinance was cut down two weeks on each side, which I think is a good idea. How was this done without a new ordinance or making an amendment? I was under the impression that the council would have to formally take action to make a change.
- Regarding permits, I have heard from residents that some years there have been (or at least it appeared to them) that there were a set number of permits for the city, and once they were out they would be out of luck in regards to parking. How many long term permits are available and what is our decision criteria for approval or denial?
- Residents have shared data about in previous years, stating that days with amount of snow to trigger everyone being off the street was approximately 20-30% of the duration of the old ban. I know that plows are out much more than just days we get 2-3" or more of snow, but I would be interested to see/hear about how often plows are out during the season in regards to this.
- In my opinion, having a less restrictive parking ordinance would allow our police force to one, focus on other pressing issues, and two, have greater enforcement when a ban was actually in effect as opposed to it being every single day of the season
- I would be interested in hearing from other council members and staff about different ideas they have or their feelings on new ideas in other cities - like one sided parking in Minneapolis and St Paul

Thanks,  
Justice

**Justice Spriggs, M.D. (he/him) | Councilmember - City of Columbia Heights**  
 3989 Central Ave NE, Columbia Heights, MN, 55421  
 Email: [jspriggs@columbiaheightsmn.gov](mailto:jspriggs@columbiaheightsmn.gov)  
 Direct: 763-706-3617 | Main: 763-706-3600  
<http://columbiaheightsmn.gov>

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## *Surrounding City's Winter Parking Bans*

### **Fridley:**

Parking on Fridley streets is prohibited between the hours of 2 a.m. and 6 a.m. from November 1 through April 1 (Chapter 506 (Unattended Vehicle ordinance)). In addition, there is no street parking anytime while snow removal is in progress. Vehicles parked on streets during this time may be tagged and towed at your expense. This expedites and improves the snow plowing activities by City crews.

### **New Brighton:**

City Code **Section 29-32** – regarding No Parking After Snowfall states: ***No person shall park or leave standing any vehicle on any street or roadway after a snowfall of at least three inches. Parking may be resumed on the streets or roadways after the snow has been removed or plowed to the curb line. (Code 1966; Ord. No. 249, 2-11- 69; Ord. No. 535, 12-10-85; Code of 1988; Code of 2001)***

Section 29-20 and Section 29-21 of the City Code restrict daytime parking on streets to 6 hours between 5:00 a.m. and 2:00 a.m., and night time parking to 30 minutes between 2:00 a.m. and 5:00 a.m.

Cars that are parked in violation of the Ordinance are plowed in. After the snowfall is over and the streets are cleared, the cars that have been plowed in are usually gone and the remaining snow can be removed. Cars that are not removed within a reasonable period of time are towed by the Police Department.

### **City of St. Anthony:**

(A) No person shall park a vehicle on any city street for a period of 48 hours, commencing immediately after 2 inches or more of continuous snowfall, or until snow removal has been completed curb to curb.

(B) Whenever it is necessary to the proper direction control, regulation of traffic, plowing and/or the removal of snow, ice, or waste, or maintenance or improvement of any highway or street to remove any vehicle standing on a highway or street in the city, then any police officer is authorized to provide for the removal of the vehicle and have the same removed to the nearest convenient garage or other place of safety. The cost of removal and storage of the vehicle will be charged to the owner of the vehicle, and to the person causing the violation.

(C) If any vehicle is left standing for a period in excess of 24 hours, then the vehicle may be deemed a traffic impediment, and a police officer is authorized to provide for the removal of the vehicle.

### **Brooklyn Park:**

Regardless of weather conditions, between October 15 to April 15 vehicles may not be parked on city streets between 2 a.m. to 5 a.m. Vehicles left on city streets between 2 a.m. to 5 a.m. will be ticketed and towed.

### **City of Crystal / Snow Parking Restrictions**

On-street parking is prohibited between 2 a.m. and 5 a.m. After a snowfall of at least 1½ inches in the city, parking is prohibited on public streets and alleys until the street or alley has been plowed and the snow removed to the curb line. [Parking violations](#) should be reported to the police by calling 911. When the city gets 1.5 inches of snow or more, it does a full plow of all city streets and alleys. If there is less than 1.5 inches in accumulation, the city may send out trucks to salt main roads and hills.

### **Brooklyn Center:**

27-120 Parking Restricted and Prohibited 1) No person in charge of any vehicle shall park or permit such vehicle to stand upon the roadway of any highway or street in the City of Brooklyn Center between the hours of 2 a.m.

and 6 a.m., nor for more than six consecutive hours at any other time. No person in charge of any vehicle shall park or permit such vehicle to stand upon any alley in the City of Brooklyn Center at any time.

Street snow removal operations will begin when there has been a snowfall of more than 2.5 inches or if other conditions warrant plowing. No parking is allowed on any City street between 2:00 am and 6:00 am or for more than 6 consecutive hours at any other time. Try not to park on streets, especially during and after a snowfall.

#### **Coon Rapids:**

The winter parking ban is in effect from November 1 through April 1. No parking is allowed on the street from 2 a.m. to 6 a.m. Parking is also prohibited on public streets when there is an expected snow accumulation of 3 inches or more, or until the street has been plowed from curb-to-curb.

#### **Blaine:**

Sec. 82-151 states: No owner of any vehicle or person in charge of any vehicle shall park or permit such vehicle to stand upon any highway, street, or alley in the city for more than 48 consecutive hours at any time. From November 1 to April 1, no person shall park or permit to be parked any vehicle on any highway, street, or alley between the hours of 2AM and 7AM without an emergency parking permit issued by the police department. Any vehicle parked in violation of this section may be removed as provided by section 82-61. The term "highway, street, or alley" shall be construed to mean the entire width of the right-of-way.

#### **Arden Hills:**

No parking on city streets between 2:00 am and 6:00 am. No parking on city streets after the accumulation of two or more inches of snow until plowing has been completed.

#### **Shoreview:**

No one can have their vehicle curbside in Shoreview between the hours of 2:00 a.m. and 5:00 a.m

#### **Woodbury:**

To facilitate plowing, parking on city streets is banned between 2 a.m. and 6 a.m. from Nov. 1 through April 1. City ordinance No. 14-122 also prohibits on-street parking any time two or more inches of snow have accumulated, until after the street has been completely plowed. The two-inch guideline applies to any hour of the day, any time of the year.

#### **Wayzata:**

The City of Wayzata ordinance 303.1A states that no person shall park or leave standing any vehicle on any public street in the City of Wayzata commencing at 2:00 A.M. after a snowfall of 2" or more in depth has fallen. The parking ban shall remain in effect until the snow has been removed or plowed to the curb line.

## CITY COUNCIL WORK SESSION MEETING

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

<b>ITEM:</b>	<b>Massage Therapy Licensing</b>								
<b>DEPARTMENT:</b> Community Development		<b>BY/DATE:</b> CD Director/Assistant City Manager/March 20, 2024							
<p><b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i></p> <table> <tr> <td>X Healthy and Safe Community</td><td>_Thriving and Vibrant Destination Community</td></tr> <tr> <td>_Equitable, Diverse, Inclusive, and Friendly</td><td>_Strong Infrastructure and Public Services</td></tr> <tr> <td>_Trusted and Engaged Leadership</td><td>_Sustainable</td></tr> </table>				X Healthy and Safe Community	_Thriving and Vibrant Destination Community	_Equitable, Diverse, Inclusive, and Friendly	_Strong Infrastructure and Public Services	_Trusted and Engaged Leadership	_Sustainable
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_Equitable, Diverse, Inclusive, and Friendly	_Strong Infrastructure and Public Services								
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### BACKGROUND:

At a recent work session meeting, the Council asked staff to investigate proposed state legislation related to the regulation of massage therapy businesses, as the Council had received information that there was a bill proposed that seeks to regulate the industry at the state level. Following the meeting, staff reached out to the City's contracted lobbyists at Lockridge Grindal Nauen to see what information they could find regarding the legislation.

### SUMMARY OF CURRENT STATUS:

Staff from Lockridge Grindal Nauen have informed staff that a bill (HF 973) was introduced in the 2023 legislative session that addresses the regulation of massage therapy and Asian bodywork therapy businesses statewide. The bill did not pass during the 2023 session but is still alive this biennium. At the time of this report, the bill had not received a hearing, but staff from Lockridge Grindal Nauen plan to monitor its progress during the remainder of the session to see if there is any movement with the bill.

### STAFF RECOMMENDATION:

Staff would like the Council to review the bill and determine if the goals of the legislation are in alignment with feedback the Council has received from community members. Staff will continue to monitor the progress of the bill and report back to the Council at the end of the 2024 session.

### ATTACHMENT(S):

- HF 973

This Document can be made available  
in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 973

01/30/2023

Authored by Pinto, Schomacker, Elkins, Kiel, Hollins and others  
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy

- 1.1A bill for an act
- 1.2relating to health occupations; establishing licensure for massage therapy and
- 1.3Asian bodywork therapy; establishing fees; providing criminal penalties; amending
- 1.4Minnesota Statutes 2022, sections 146A.01, subdivision 4; 146A.06, subdivision
- 1.53; 146A.09, by adding a subdivision; proposing coding for new law in Minnesota
- 1.6Statutes, chapter 148.
- 1.7BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8ARTICLE 1
- 1.9MASSAGE THERAPY AND ASIAN BODYWORK THERAPY
- 1.10Section 1. [148.635] CITATION.
- 1.11Sections 148.635 to 148.6363 may be cited as the "Minnesota Massage Therapy and
- 1.12Asian Bodywork Therapy Act."
- 1.13Sec. 2. [148.6351] DEFINITIONS.
- 1.14Subdivision 1. **Applicability.** For purposes of sections 148.635 to 148.6363, the terms
- 1.15defined in this section have the meanings given them.
- 1.16Subd. 2. **Advisory council.** "Advisory council" means the Massage Therapy Advisory
- 1.17Council established under section 148.6362.
- 1.18Subd. 3. **Applicant.** "Applicant" means an individual who has submitted an application
- 1.19to the board according to sections 148.635 to 148.6363.
- 1.20Subd. 4. **Asian bodywork therapy.** (a) "Asian bodywork therapy" means therapy based
- 1.21upon Chinese medical principles with the intent of promoting, maintaining, and restoring
- 1.22health and well-being by affecting the body and emotions.

2.1 (b) Asian bodywork therapy may use any of the following techniques:

2.2 (1) pressing;

2.3 (2) soothing;

2.4 (3) kneading;

2.5 (4) vibration;

2.6 (5) friction;

2.7 (6) passive stretching within the client's physiological range of motion;

2.8 (7) active assistive and resistive movement;

2.9 (8) stretching; and

2.10 (9) tapping, movement, exercising, or manipulation of the soft tissues.

2.11 (c) Methods of assessment and evaluation for Asian bodywork therapy may include a  
2.12 health history and intake interview; observation; listening; questioning; palpation; and with  
2.13 the client's permission or if the client is a minor, the permission of the client's legal guardian  
2.14 or parent, consultation with the client's other health care providers.

2.15 Subd. 5. **Board.** "Board" means the Board of Nursing established under section 148.181.

2.16 Subd. 6. **Client.** "Client" means a recipient of massage therapy services or Asian  
2.17 bodywork therapy services.

2.18 Subd. 7. **Contact hours.** "Contact hours" means the number of hours during which a  
2.19 student is engaged in learning activities provided by a board-approved training program.  
2.20 Contact hours include synchronous or asynchronous distance learning and in-person learning.

2.21 Subd. 8. **Credentialing examination.** "Credentialing examination" means an examination  
2.22 approved by the board that meets recognized psychometric principles and standards and is  
2.23 administered by a national testing organization.

2.24 Subd. 9. **Licensed Asian bodywork therapist.** "Licensed Asian bodywork therapist"  
2.25 or "Asian bodywork therapist" means an individual who meets the qualifications in sections  
2.26 148.635 to 148.6363 for the practice of Asian bodywork therapy and is licensed by the  
2.27 board.

2.28 Subd. 10. **Licensed massage therapist.** "Licensed massage therapist" or "massage  
2.29 therapist" means an individual who meets the qualifications in sections 148.635 to 148.6363  
2.30 for the practice of massage therapy and is licensed by the board.

3.1 Subd. 11. **Massage therapy.** (a) "Massage therapy" means the manual manipulation of  
3.2 the soft tissues of the body to promote, maintain, and restore health and well-being.

3.3 (b) Massage therapy may use any of the following techniques:

3.4 (1) stroking;

3.5 (2) gliding;

3.6 (3) lifting;

3.7 (4) kneading;

3.8 (5) jostling;

3.9 (6) vibration;

3.10 (7) percussion;

3.11 (8) compression;

3.12 (9) friction;

3.13 (10) holding;

3.14 (11) passive stretching within the client's physiological range of motion;

3.15 (12) movement or manipulation of the soft tissues;

3.16 (13) active assistive and resistive movement; and

3.17 (14) stretching.

3.18 (c) Methods of assessment for massage therapy may include a health history and intake  
3.19 interview; observation of posture and movement; palpation; range of motion assessment;  
3.20 and with the client's permission or if the client is a minor, the permission of the client's legal  
3.21 guardian or parent, consultation with the client's other health care providers.

3.22 Subd. 12. **Municipality.** "Municipality" means a county, town, or home rule charter or  
3.23 statutory city.

3.24 **Sec. 3. [148.6352] DUTIES OF THE BOARD.**

3.25 The board, in consultation with the advisory council, shall:

3.26 (1) issue licenses to qualified applicants according to sections 148.635 and 148.6363;

3.27 (2) adopt rules, including standards of practice and a professional code of ethics, necessary  
3.28 to implement the provisions of sections 148.635 to 148.6363;



4.1 (3) assign duties to the advisory council that are necessary to implement the provisions  
4.2 of sections 148.635 to 148.6363;

4.3 (4) approve a credentialing examination;

4.4 (5) establish educational requirements, approve massage therapy and Asian bodywork  
4.5 therapy schools or programs, and conduct or provide for surveys of schools, programs, and  
4.6 courses;

4.7 (6) enforce sections 148.635 to 148.6363 and investigate violations of section 148.636  
4.8 by a licensee or applicant;

4.9 (7) impose discipline as described in section 148.636;

4.10 (8) maintain a record of names and addresses of licensees; and

4.11 (9) distribute information regarding massage therapy and Asian bodywork therapy  
4.12 standards, including applications and forms necessary to carry out the provisions of sections  
4.13 148.635 to 148.6363.

4.14 Sec. 4. **[148.6353] LIMITATIONS ON PRACTICE; DATA PRACTICES.**

4.15 Subdivision 1. **Limitations.** The practice of massage therapy and Asian bodywork  
4.16 therapy does not include:

4.17 (1) performing examinations for the purpose of diagnosis;

4.18 (2) providing treatments that are outside the scope of massage therapy or Asian bodywork  
4.19 therapy practice;

4.20 (3) attempts to adjust, manipulate, or mobilize any articulation of the body or spine by  
4.21 the use of high-velocity, low-amplitude thrusting force;

4.22 (4) attempts to stimulate various points of the body by needle insertion or interruption  
4.23 of the cutaneous integrity by needle insertion to secure therapeutic relief of symptoms;

4.24 (5) prescriptive exercise;

4.25 (6) manual or mechanical traction when applied to the spine or extremities for the  
4.26 purposes of joint mobilization or manipulation;

4.27 (7) injection therapy;

4.28 (8) laser therapy;

4.29 (9) microwave diathermy;

4.30 (10) electrical stimulation;

5.1 (11) ultrasound;

5.2 (12) iontophoresis; or

5.3 (13) phonophoresis.

5.4 Subd. 2. **Referrals to other health care providers.** If a reasonably prudent licensed  
5.5 massage therapist or Asian bodywork therapist finds a client's medical condition is beyond  
5.6 the scope of practice established by sections 148.635 to 148.6363 or by rules of the board  
5.7 for a licensed massage therapist or Asian bodywork therapist, the therapist must refer the  
5.8 client to a licensed health care provider. Nothing in this subdivision prohibits the massage  
5.9 therapist or Asian bodywork therapist from continuing to comanage a client's care.

5.10 Subd. 3. **Data practices.** All client records maintained by a licensed massage therapist  
5.11 or Asian bodywork therapist are subject to sections 144.291 to 144.298.

5.12 Sec. 5. **[148.6354] UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES**  
5.13 **AND RESTRICTIONS ON USE.**

5.14 Subdivision 1. **Unlicensed practice prohibited; protected titles.** Effective January 1,  
5.15 2024, no person shall practice or attempt to practice massage therapy or Asian bodywork  
5.16 therapy or use any of the terms or titles "licensed massage therapist," "LMT," "licensed  
5.17 Asian bodywork therapist," "LABT," or any other term or title that may lead the public to  
5.18 believe that the person is engaged in the practice of massage therapy or Asian bodywork  
5.19 therapy unless the person is licensed under sections 148.635 to 148.6363 as a licensed  
5.20 massage therapist or licensed Asian bodywork therapist.

5.21 Subd. 2. **Penalty.** Any person found to be in violation of subdivision 1 is guilty of a  
5.22 gross misdemeanor.

5.23 Sec. 6. **[148.6355] EXEMPTIONS; OTHER HEALTH CARE PROVIDERS.**

5.24 Subdivision 1. **Other professions.** Nothing in sections 148.635 to 148.6363 shall be  
5.25 construed to prohibit, restrict, or regulate the practice of any profession or occupation  
5.26 licensed or registered in the state by an individual licensed or registered to practice the  
5.27 profession or occupation or to perform any act that falls within the scope of practice of the  
5.28 profession or occupation.

5.29 Subd. 2. **Complementary and alternative health care practitioner.** (a) Nothing in  
5.30 sections 148.635 to 148.6363 shall be construed to prohibit, restrict, or regulate the practice  
5.31 of any individual who is engaged in providing complementary and alternative health care  
5.32 practices as defined in section 146A.01, subdivision 4, provided that the practitioner does

6.1 not advertise or imply that the practitioner is licensed according to sections 148.635 to  
6.2 148.6363 and the practices are not designated or implied to be massage therapy or Asian  
6.3 bodywork therapy.

6.4 (b) This subdivision includes any complementary and alternative health care practitioner  
6.5 who is recognized by or meets the established standards of either a professional organization  
6.6 or credentialing body that represents or certifies the respective practice based on a minimum  
6.7 level of training, demonstration of competency, and adherence to ethical standards, and:

6.8 (1) uses touch, words, and directed movement to deepen awareness of existing patterns  
6.9 of movement as well as to suggest new possibilities of movement;

6.10 (2) uses energy or superficial touch to affect the energy systems of the human body;

6.11 (3) uses touch to effect change in the structure of the body while engaged in the practice  
6.12 of structural integration; or

6.13 (4) practices reflexology.

6.14 Subd. 3. **Other exemptions.** Nothing in sections 148.635 to 148.6363 shall be construed  
6.15 to prohibit, restrict, or regulate individuals providing:

6.16 (1) massage emergency response team services working in conjunction with disaster  
6.17 relief officials;

6.18 (2) massage therapy services or Asian bodywork therapy services provided by out-of-state  
6.19 massage therapists or Asian bodywork therapists that are incidental to a specific event, such  
6.20 as an amateur sports competition, dance performance or event, or other similar athletic  
6.21 events;

6.22 (3) instruction of education courses in massage therapy or Asian bodywork therapy if  
6.23 the instruction does not involve the direct delivery of massage therapy services or Asian  
6.24 bodywork therapy services;

6.25 (4) massage therapy services or Asian bodywork therapy services provided as an  
6.26 employee of the United States government or any federal government entity while acting  
6.27 in the course and scope of such employment;

6.28 (5) massage therapy services or Asian bodywork therapy services provided by massage  
6.29 therapy students or Asian bodywork therapy students practicing under supervision as part  
6.30 of a school-sanctioned activity; or

6.31 (6) massage therapy services or Asian bodywork therapy services provided without  
6.32 remuneration to family members.

7.1 Sec. 7. **[148.6356] REQUIREMENTS FOR LICENSURE.**

7.2 **Subdivision 1. General licensure requirements.** (a) To be eligible for licensure as a  
7.3 massage therapist or Asian bodywork therapist according to sections 148.635 to 148.6363,  
7.4 an applicant must submit to the board:

7.5 (1) a completed application on a form provided by the board that includes:

7.6 (i) the applicant's name, Social Security number, home address and telephone number,  
7.7 and business address and telephone number;

7.8 (ii) a list of credentials held by the applicant in this state or in any other jurisdiction;

7.9 (iii) a description of any jurisdiction's refusal to license or credential the applicant;

7.10 (iv) a description of all professional disciplinary actions initiated against the applicant  
7.11 in this state or any other jurisdiction;

7.12 (v) any history of drug or alcohol abuse;

7.13 (vi) any misdemeanor, gross misdemeanor, or felony convictions; and

7.14 (vii) any other additional information requested by the board;

7.15 (2) proof, as required by the board, that the applicant has satisfactorily completed a  
7.16 postsecondary massage therapy program or Asian bodywork therapy program through a  
7.17 school or program that:

7.18 (i) is licensed by or registered with the Minnesota Office of Higher Education or has  
7.19 conditional approval for a registered school and provisional license from the Minnesota  
7.20 Office of Higher Education;

7.21 (ii) has institutional accreditation from an agency recognized by the United States  
7.22 Department of Education; and

7.23 (iii) meets the education and training requirements described under subdivision 2 or 3;

7.24 (3) proof of successful passage of a credentialing examination approved by the board;

7.25 (4) proof, as required by the board, of current professional liability insurance coverage  
7.26 or school liability insurance coverage as applicable with at least \$2,000,000 of coverage  
7.27 per occurrence and \$6,000,000 annual aggregate; and

7.28 (5) any applicable fees as specified in section 148.6363.

8.1 (b) The applicant must submit to a criminal background check conducted in accordance  
8.2 with section 214.075 and pay any fees associated with conducting the criminal background  
8.3 check.

8.4 (c) The applicant must sign the application certifying that the information in the  
8.5 application is true and correct to the best of the applicant's knowledge and authorizing the  
8.6 board to obtain access to the applicant's records in this state or any other jurisdiction in  
8.7 which the applicant has engaged in the practice of massage therapy or Asian bodywork  
8.8 therapy.

8.9 **Subd. 2. Education and training requirements for massage therapy licensure. (a)**  
8.10 An applicant for licensure as a massage therapist under subdivision 1 whose application is  
8.11 received by the board before January 1, 2027, must submit to the board proof of satisfactorily  
8.12 completing a postsecondary program that meets the requirements in subdivision 1, paragraph  
8.13 (a), clause (2), and includes education and training in:

8.14 (1) anatomy;

8.15 (2) physiology;

8.16 (3) pathology;

8.17 (4) massage therapy;

8.18 (5) massage therapy history, theory, and research;

8.19 (6) professional ethics;

8.20 (7) therapeutic interpersonal communications and standards of practice;

8.21 (8) business and legal practices related to massage therapy; and

8.22 (9) supervised practice demonstrating safe use of equipment and supplies.

8.23 (b) An applicant for licensure as a massage therapist under subdivision 1 whose  
8.24 application is received by the board on or after January 1, 2027, must submit to the board  
8.25 proof of satisfactorily completing a postsecondary massage therapy program that meets the  
8.26 requirements in subdivision 1, paragraph (a), clause (2), and either:

8.27 (1) has programmatic accreditation for massage therapy training programs from an  
8.28 agency recognized by the United States Department of Education; or

8.29 (2) includes at least 625 contact hours of education and training composed of 500 contact  
8.30 hours of instruction in the areas listed in paragraph (a) and 125 contact hours of student  
8.31 clinical practice.

(c) A program may require more than 625 total contact hours of education and training, and may require more than 125 hours of supervised clinical practice, if at least 500 contact hours are devoted to instruction in the subjects listed in paragraph (a).

(d) A student shall not begin a supervised clinical practice of massage therapy without student or professional liability insurance coverage of up to \$2,000,000 per occurrence and \$6,000,000 annual aggregate. The school or program may offer the student or professional liability insurance coverage required under this paragraph to the student.

**Subd. 3. Education and training requirements for Asian bodywork therapy licensure.** (a) An applicant for licensure as an Asian bodywork therapist under subdivision 1 whose application is received by the board before January 1, 2027, must submit to the board proof of satisfactorily completing a postsecondary program that meets the requirements in subdivision 1, paragraph (a), clause (2), and includes education and training in:

(1) anatomy;

(2) physiology;

(3) pathology;

(4) Asian bodywork therapy;

(5) traditional Chinese medicine theory;

(6) Asian bodywork history, theory, and research;

(7) professional ethics;

(8) therapeutic interpersonal communications and standards of practice;

(9) business and legal practices related to Asian bodywork therapy; and

(10) supervised practice demonstrating safe use of equipment and supplies.

(b) An applicant for licensure as an Asian bodywork therapist under subdivision 1 whose application is received by the board on or after January 1, 2027, must submit to the board proof of satisfactorily completing a postsecondary program that meets the requirements in subdivision 1, paragraph (a), clause (2), and either:

(1) has programmatic accreditation for Asian bodywork therapy training programs from an agency recognized by the United States Department of Education; or

(2) includes at least 625 contact hours of education and training composed of 500 contact hours of instruction in the areas listed in paragraph (a) and 125 contact hours of student clinical practice.

10.1 (c) An Asian bodywork therapy school or program may require more than 625 total  
10.2 contact hours of education and training, and may require more than 125 hours of supervised  
10.3 clinical practice, if at least 500 contact hours are devoted to instruction in the subjects listed  
10.4 in paragraph (a).

10.5 (d) A student shall not begin a supervised clinical practice of Asian bodywork therapy  
10.6 without providing proof to the Asian bodywork therapy school or program of professional  
10.7 liability insurance coverage of up to \$2,000,000 per occurrence and \$6,000,000 annual  
10.8 aggregate. The school or program may offer the professional liability insurance coverage  
10.9 required under this paragraph to the student.

10.10 Subd. 4. **Licensure by endorsement.** (a) To be eligible for licensure by endorsement,  
10.11 an applicant must:

10.12 (1) meet the requirements for licensure in subdivision 1 with the exception of subdivision  
10.13 1, paragraph (a), clauses (2) and (3);

10.14 (2) provide proof as required by the board that the massage therapy training program or  
10.15 Asian bodywork therapy training program at the time of the applicant's enrollment met the  
10.16 postsecondary education requirements in the jurisdiction in which the program was provided;  
10.17 and

10.18 (3) provide proof as required by the board of a current and unrestricted equivalent  
10.19 credential in another jurisdiction that has qualifications at least equivalent to the requirements  
10.20 of sections 148.635 to 148.6363.

10.21 (b) Licenses issued by endorsement expire on the same schedule and must be renewed  
10.22 by the procedures described under section 148.6357, subdivision 2.

10.23 Subd. 5. **Licensure by prior experience.** (a) To be eligible for licensure by prior  
10.24 experience, an applicant must submit to the board:

10.25 (1) the requirements for licensure in subdivision 1, with the exception of subdivision 1,  
10.26 paragraph (a), clauses (2) and (3); and

10.27 (2) proof of experience, as required by the board, in the practice of massage therapy or  
10.28 Asian bodywork therapy for at least two of the previous five years immediately preceding  
10.29 the licensure application date.

10.30 (b) Licenses issued under this subdivision expire on the same schedule and must be  
10.31 renewed by the procedures described under section 148.6357, subdivision 2, unless the  
10.32 license is canceled due to nonrenewal under section 148.6357, subdivision 8, in which case

11.1 the individual must apply for a new license under the initial licensure requirements in  
11.2 subdivision 1.

11.3 (c) The application for licensure by prior experience under this subdivision must be  
11.4 received by the board before January 1, 2024.

11.5 Subd. 6. **Temporary permit.** (a) The board may issue a temporary permit to practice  
11.6 massage therapy or Asian bodywork therapy to an applicant eligible for licensure under this  
11.7 section if the application for licensure is complete, all applicable requirements have been  
11.8 met, and applicable fees have been paid. The temporary permit remains valid until the board  
11.9 takes action on the applicant's application, or 90 days from the temporary permit's issuance,  
11.10 whichever is sooner.

11.11 (b) A temporary permit holder is considered a licensee for purposes of sections 148.6359  
11.12 and 148.636.

11.13 (c) Practicing without a temporary permit is a violation of section 148.6359.

11.14 Sec. 8. **[148.6357] LICENSE RENEWAL.**

11.15 Subdivision 1. **Licensure expiration.** Licenses issued according to sections 148.635 to  
11.16 148.6363 expire biennially.

11.17 Subd. 2. **Renewal.** To be eligible for licensure renewal, an applicant must biennially,  
11.18 or as determined by the board, submit to the board:

11.19 (1) a completed renewal application on a form provided by the board;

11.20 (2) any applicable fees as specified in section 148.6363;

11.21 (3) proof of current professional liability coverage with at least \$2,000,000 of coverage  
11.22 per occurrence and \$6,000,000 annual aggregate; and

11.23 (4) any additional information requested by the board to clarify information presented  
11.24 in the renewal application. The applicant must submit the information within 30 days after  
11.25 the board's request, or the renewal request is canceled.

11.26 Subd. 3. **Change of address.** A licensee or applicant who changes addresses must inform  
11.27 the board in writing within 30 days of the change of address. Notices or other correspondence  
11.28 mailed to or served on a licensee or applicant at the licensee or applicant's current address  
11.29 on file are considered received by the licensee or applicant.



12.1 Subd. 4. **Licensure renewal notice.** (a) At least 60 days before the licensure expiration  
12.2 date, the board shall send out a renewal notice to the last known address of the licensee.  
12.3 The notice must include:

12.4 (1) a renewal application;

12.5 (2) a notice of fees required for renewal; and

12.6 (3) information stating that licensure will expire without further action by the board if  
12.7 an application for licensure renewal is not received before the deadline for renewal.

12.8 (b) The licensee's failure to receive the renewal notice does not relieve the licensee of  
12.9 the obligation to meet the deadline and other requirements for licensure renewal. Failure to  
12.10 receive the notice is not grounds for challenging expiration of licensed status.

12.11 Subd. 5. **Renewal deadline.** The renewal application and fee must be received by the  
12.12 board or must be postmarked before the license's expiration date. If the postmark is illegible,  
12.13 the application is timely if received by the third working day after the deadline.

12.14 Subd. 6. **Inactive status and return to active status.** (a) A license may be placed in  
12.15 inactive status upon application to the board by the licensee and upon payment of an inactive  
12.16 status fee as specified in section 148.6363. Failure to pay the annual inactive status fee shall  
12.17 result in a lapse of licensure.

12.18 (b) A licensee seeking licensure restoration to active status from inactive status must:

12.19 (1) apply to the board for licensure renewal according to subdivision 2; and

12.20 (2) submit the applicable reactivation fee as specified in section 148.6363.

12.21 (c) If the license has been in inactive status for more than five years, the applicant must  
12.22 also receive a passing score on a credentialing examination before the restoration of the  
12.23 license to active status.

12.24 Subd. 7. **Licensure following lapse for two years or less.** To regain active licensure  
12.25 status for a license that has lapsed for two years or less, the applicant must:

12.26 (1) apply to the board for licensure renewal according to subdivision 2; and

12.27 (2) submit all applicable renewal fees for the period not licensed, including the fee for  
12.28 late renewal.

12.29 Subd. 8. **Cancellation due to nonrenewal.** The board shall not renew, reissue, reinstate,  
12.30 or restore a license that has lapsed and has not been renewed within two years. An individual  
12.31 whose license is canceled for nonrenewal must obtain a new license by applying for licensure

13.1 and fulfilling all requirements under section 148.6356, subdivision 1, for initial licensure  
13.2 as a massage therapist or Asian bodywork therapist.

13.3 Sec. 9. **[148.6358] BOARD ACTION ON APPLICATIONS.**

13.4 Subdivision 1. **General.** (a) The board must act on each application for licensure or  
13.5 renewal according to this section.

13.6 (b) The board shall determine if the applicant meets the requirements for licensure or  
13.7 renewal under section 148.6356 or 148.6357. The board may investigate information provided  
13.8 by an applicant to determine whether the information is accurate and complete and may  
13.9 request additional information or documentation.

13.10 (c) The board shall notify each applicant in writing of action taken on the application,  
13.11 the grounds for denying licensure if licensure is denied, and the applicant's right to review  
13.12 under paragraph (d).

13.13 (d) An applicant denied licensure may make a written request to the board within 30  
13.14 days of the board's notice to appear before the advisory council and for the advisory council  
13.15 to review the board's decision to deny licensure. After reviewing the denial, the advisory  
13.16 council shall make a recommendation to the board as to whether the denial must be affirmed.  
13.17 Each applicant is allowed only one request for review per licensure period.

13.18 Subd. 2. **Licensure prohibited.** (a) Except as provided in paragraph (b), the board shall  
13.19 deny an application for licensure if an applicant:

13.20 (1) has been convicted in this state of any of the following crimes or of equivalent crimes  
13.21 in another state:

13.22 (i) labor or sex trafficking under section 609.281, 609.282, 609.283, or 609.322;

13.23 (ii) criminal sexual conduct under sections 609.342 to 609.3451 or 609.3453; or

13.24 (iii) a violent crime as defined under section 611A.08, subdivision 6;

13.25 (2) is a registered sex offender under section 243.166;

13.26 (3) has been subject to disciplinary action under section 146A.09, if the board determines  
13.27 that such denial is necessary to protect the public; or

13.28 (4) is charged with or under investigation for a complaint in this state or any other  
13.29 jurisdiction that would constitute a violation of statutes or rules established for the practice  
13.30 of massage therapy or Asian bodywork therapy in this state and the charge or complaint  
13.31 has not been resolved in favor of the applicant.

14.1 (b) The board may establish criteria whereby an individual convicted of an offense listed  
14.2 in paragraph (a) may become licensed if the criteria:

14.3 (1) utilize a rebuttable presumption that the applicant is not suitable for licensing or  
14.4 credentialing;

14.5 (2) provide a standard for overcoming the presumption; and

14.6 (3) require that a minimum of ten years has elapsed since the applicant was released  
14.7 from incarceration or supervisory jurisdiction related to the offense.

14.8 (c) The board shall not consider an application under paragraph (b) if the board determines  
14.9 that the victim involved in the offense was a client of the applicant at the time of the offense.

14.10 **Sec. 10. [148.6359] GROUNDS FOR DISCIPLINARY ACTION.**

14.11 Subdivision 1. **Grounds listed.** (a) The board may deny, revoke, suspend, limit, or  
14.12 condition the licensure of a licensed massage therapist or licensed Asian bodywork therapist  
14.13 or may otherwise discipline a licensee. The fact that massage therapy or Asian bodywork  
14.14 therapy may be considered a less customary approach to health care must not by itself  
14.15 constitute the basis for disciplinary action.

14.16 (b) The following are grounds for disciplinary action regardless of whether injury to a  
14.17 client is established:

14.18 (1) failing to demonstrate the qualifications or to satisfy the requirements for licensure  
14.19 under sections 148.635 to 148.6363 or rules of the board. In the case of an applicant, the  
14.20 burden of proof is on the applicant to demonstrate the qualifications or satisfy the  
14.21 requirements;

14.22 (2) advertising in a false, fraudulent, deceptive, or misleading manner, including but not  
14.23 limited to:

14.24 (i) advertising or holding oneself out as a "licensed massage therapist," "LMT," "licensed  
14.25 Asian bodywork therapist," "LABT," or any abbreviation or derivative thereof to indicate  
14.26 such a title, when such licensure is not valid or current for any reason;

14.27 (ii) advertising or holding oneself out as a "licensed massage therapist," "licensed Asian  
14.28 bodywork therapist," or any abbreviation or derivative thereof to indicate such a title, except  
14.29 if the individual holds a license in another state or jurisdiction and does not provide services  
14.30 in Minnesota;

14.31 (iii) advertising a service, the provision of which would constitute a violation of this  
14.32 chapter or rules established by the board; and

15.1 (iv) using fraud, deceit, or misrepresentation when communicating with the general  
15.2 public, health care providers, or other business professionals;

15.3 (3) falsifying information in a massage therapy or Asian bodywork therapy licensure or  
15.4 renewal application or attempting to obtain licensure, renewal, or reinstatement by fraud,  
15.5 deception, or misrepresentation, or aiding and abetting any of these acts;

15.6 (4) engaging in conduct with a client that is sexual or may reasonably be interpreted by  
15.7 the client as sexual, or engaging in any verbal behavior that is seductive or sexually  
15.8 demeaning to a client, or engaging in sexual exploitation of a client, without regard to who  
15.9 initiates such behaviors;

15.10 (5) committing an act of gross malpractice, negligence, or incompetency, or failing to  
15.11 practice massage therapy or Asian bodywork therapy with the level of care, skill, and  
15.12 treatment that is recognized by a reasonably prudent massage therapist or Asian bodywork  
15.13 therapist as being acceptable under similar conditions and circumstances;

15.14 (6) having an actual or potential inability to practice massage therapy or Asian bodywork  
15.15 therapy with reasonable skill and safety to clients by reason of illness, as a result of any  
15.16 mental or physical condition, or use of alcohol, drugs, chemicals, or any other material.  
15.17 Being adjudicated as mentally incompetent, mentally ill, a chemically dependent person,  
15.18 or a person dangerous to the public by a court of competent jurisdiction, inside or outside  
15.19 of this state, may be considered evidence of an inability to practice massage therapy or  
15.20 Asian bodywork therapy;

15.21 (7) being the subject of disciplinary action as a massage therapist or Asian bodywork  
15.22 therapist in another state or jurisdiction if the board or advisory council determines that the  
15.23 cause of the disciplinary action would be a violation under this state's statutes or rules of  
15.24 the board had the violation occurred in this state;

15.25 (8) failing to notify the board of revocation or suspension of a credential, or any other  
15.26 disciplinary action taken by this or any other state, territory, or country, including any  
15.27 restrictions on the right to practice; or the surrender or voluntary termination of a credential  
15.28 during a board investigation of a complaint, as part of a disciplinary order, or while under  
15.29 a disciplinary order;

15.30 (9) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,  
15.31 or a no-contest plea, in any court in Minnesota or any other jurisdiction in the United States,  
15.32 reasonably related to engaging in massage therapy practices or Asian bodywork therapy  
15.33 practices. Conviction, as used in this clause, includes a conviction for an offense that, if  
15.34 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor

- 16.1 regardless of its designation elsewhere, or a criminal proceeding where a finding or verdict  
16.2 of guilty is made or returned but the adjudication of guilt is either withheld or not entered;
- 16.3 (10) if a licensee is on probation, failing to abide by terms of probation;
- 16.4 (11) practicing or offering to practice beyond the scope of the practice of massage therapy  
16.5 or Asian bodywork therapy;
- 16.6 (12) managing client records and information improperly, including but not limited to  
16.7 failing to maintain adequate client records, comply with a client's request made according  
16.8 to sections 144.291 to 144.298, or furnish a client record or report required by law;
- 16.9 (13) revealing a privileged communication from or relating to a client except when  
16.10 otherwise required or permitted by law;
- 16.11 (14) providing massage therapy services or Asian bodywork therapy services that are  
16.12 linked to the financial gain of a referral source;
- 16.13 (15) obtaining money, property, or services from a client, other than reasonable fees for  
16.14 services provided to the client, through the use of undue influence, harassment, duress,  
16.15 deception, or fraud;
- 16.16 (16) engaging in abusive or fraudulent billing practices, including violations of federal  
16.17 Medicare and Medicaid laws or state medical assistance laws;
- 16.18 (17) failing to consult with a client's health care provider who prescribed a course of  
16.19 massage therapy treatment or Asian bodywork therapy treatment if the treatment needs to  
16.20 be altered from the original written order to conform with standards in the massage therapy  
16.21 or Asian bodywork therapy field or the licensee's level of training or experience;
- 16.22 (18) failing to cooperate with an investigation of the board or its representatives, including  
16.23 failing to: respond fully and promptly to any question raised by or on behalf of the board  
16.24 relating to the subject of the investigation; execute all releases requested by the board;  
16.25 provide copies of client records as reasonably requested by the board to assist in its  
16.26 investigation; and appear at conferences or hearings scheduled by the board or its staff;
- 16.27 (19) interfering with an investigation or disciplinary proceeding, including by willful  
16.28 misrepresentation of facts or by the use of threats or harassment to prevent a person from  
16.29 providing evidence in a disciplinary proceeding or any legal action;
- 16.30 (20) violating a statute, rule, order, or agreement for corrective action that the board  
16.31 issued or is otherwise authorized or empowered to enforce;
- 16.32 (21) aiding or abetting a person in violating sections 148.635 to 148.6363;

(22) failing to report to the board other massage therapists or Asian bodywork therapists who commit violations of sections 148.635 to 148.6363; and

(23) failing to notify the board in writing of the entry of a final judgment by a court of competent jurisdiction against the licensee for malpractice of massage therapy or Asian bodywork therapy, or any settlement by the licensee in response to charges or allegations of malpractice of massage therapy or Asian bodywork therapy. The notice must be provided to the board within 60 days after the entry of a judgment or date of settlement, and must contain the name of the court, case number, and the names of all parties to the action.

Subd. 2. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency must be admissible into evidence without further authentication and must constitute prima facie evidence of the violation.

Subd. 3. **Examination; access to medical data.** The board may take the actions described in section 148.261, subdivision 5, if the board has probable cause to believe that grounds for disciplinary action exist under subdivision 1, paragraph (b), clause (6). The requirements and limitations described in section 148.261, subdivision 5, must apply.

Sec. 11. **[148.636] DISCIPLINE; REPORTING.**

For purposes of sections 148.635 to 148.6363, massage therapists or Asian bodywork therapists and applicants for licensure are subject to sections 148.262 to 148.266.

Sec. 12. **[148.6361] EFFECT ON MUNICIPAL ORDINANCES.**

Subdivision 1. **License authority.** Effective January 1, 2024, the provisions of sections 148.635 to 148.6363 preempt the licensure and regulation of massage therapists or Asian bodywork therapists by a municipality, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or Asian bodywork therapist, or applicant for a municipality's credential to practice massage therapy or Asian bodywork therapy.

Subd. 2. **Municipal regulation.** Sections 148.635 to 148.6363 do not limit a municipality from:

(1) requiring a massage therapy or Asian bodywork therapy establishment to obtain a business license or permit to conduct business in the municipality; or

(2) regulating other professions or occupations.

18.1 Sec. 13. [148.6362] MASSAGE THERAPY ADVISORY COUNCIL.

18.2 Subdivision 1. **Creation; membership.** (a) The Massage Therapy Advisory Council is  
18.3 created and is composed of five members appointed by the board. All members must have  
18.4 resided in this state for at least three years immediately preceding appointment. The advisory  
18.5 council consists of:

18.6 (1) two public members, as defined in section 214.02; and

18.7 (2) three members who are licensed under sections 148.635 to 148.6363, two of whom  
18.8 must be licensed as massage therapists.

18.9 (b) No more than one member of the advisory council may be an owner or administrator  
18.10 of a massage therapy education provider.

18.11 Subd. 2. **Administration.** The advisory council is established and administered under  
18.12 section 15.059.

18.13 Subd. 3. **Chair.** The advisory council shall elect a chair from among its members.

18.14 Subd. 4. **Staffing.** The board shall provide meeting space and administrative support  
18.15 for the advisory council.

18.16 Subd. 5. **Duties.** The advisory council shall:

18.17 (1) advise the board on establishing standards of practice and a code of ethics for licensed  
18.18 massage therapists or Asian bodywork therapists;

18.19 (2) advise the board on distributing information regarding massage therapy or Asian  
18.20 bodywork therapy practice standards;

18.21 (3) review applications and make recommendations for granting or denying applications  
18.22 for licensure or licensure renewal;

18.23 (4) advise the board on issues related to receiving and investigating complaints,  
18.24 conducting hearings, and imposing disciplinary action in relation to complaints filed against  
18.25 licensed massage therapists or Asian bodywork therapists; and

18.26 (5) perform other duties authorized for advisory councils under chapter 214, as directed  
18.27 by the board.

18.28 Subd. 6. **Expiration.** Notwithstanding section 15.059, the advisory council does not  
18.29 expire.

19.1 Sec. 14. **[148.6363] FEES.**

19.2 **Subdivision 1. Fees.** Fees are as follows:

19.3 (1) initial licensure with application fee must not exceed \$285;

19.4 (2) biennial licensure renewal fee must not exceed \$185;

19.5 (3) duplicate licensure certificate, \$15;

19.6 (4) late fee, \$50;

19.7 (5) annual inactive status, \$50;

19.8 (6) inactive to active status reactivation, \$50;

19.9 (7) temporary permit, \$50; and

19.10 (8) returned check, \$35.

19.11 **Subd. 2. Late renewal fee.** An application for licensure renewal submitted after the  
19.12 deadline must be accompanied by a late fee in addition to the required fees.

19.13 **Subd. 3. Nonrefundable fees.** All of the fees in this section are nonrefundable.

19.14 **Subd. 4. Deposit.** Fees collected by the board under this section must be deposited into  
19.15 the state government special revenue fund.

19.16 Sec. 15. **INITIAL MASSAGE THERAPY ADVISORY COUNCIL.**

19.17 **Subdivision 1. Initial member appointments.** The Board of Nursing shall make the  
19.18 initial appointments to the Massage Therapy Advisory Council authorized under Minnesota  
19.19 Statutes, section 148.6362, by October 1, 2023. The initial therapist members appointed to  
19.20 the advisory council need not be licensed under Minnesota Statutes, sections 148.635 to  
19.21 148.636, prior to initial appointment, but must be a practicing massage therapist or Asian  
19.22 bodywork therapist with at least five years experience in the practice of massage therapy  
19.23 or Asian bodywork therapy. A massage therapist or Asian bodywork therapist initially  
19.24 appointed to the advisory council must obtain licensure under Minnesota Statutes, sections  
19.25 148.635 to 148.6363, by January 1, 2025. If the massage therapist member does not obtain  
19.26 licensure by January 1, 2025, the member must be removed from the advisory council by  
19.27 the board and a new member who is licensed under Minnesota Statutes, sections 148.635  
19.28 to 148.6363, must be appointed by the board.

19.29 **Subd. 2. First advisory council meeting; initial chair.** The Board of Nursing shall  
19.30 designate one member from the initial appointments to call the first meeting of the advisory



20.1 council. The first meeting must be convened by November 15, 2023. The advisory council  
20.2 shall elect a chair from its members at the first advisory council meeting.

20.3 Sec. 16. **APPROPRIATION.**

20.4 \$..... in fiscal year 2024 and \$..... in fiscal year 2025 are appropriated from the state  
20.5 government special revenue fund to the Board of Nursing to implement Minnesota Statutes,  
20.6 sections 148.635 to 148.6363. The base for this appropriation is \$.....

20.7 Sec. 17. **EFFECTIVE DATE.**

20.8 Sections 1 to 16 are effective July 1, 2023.

20.9 **ARTICLE 2**

20.10 **CONFORMING AMENDMENTS**

20.11 Section 1. Minnesota Statutes 2022, section 146A.01, subdivision 4, is amended to read:

20.12 Subd. 4. **Complementary and alternative health care practices.** (a) "Complementary  
20.13 and alternative health care practices" means the broad domain of complementary and  
20.14 alternative healing methods and treatments, including but not limited to: (1) acupressure;  
20.15 (2) anthroposophy; (3) aroma therapy; (4) ayurveda; (5) cranial sacral therapy; (6) culturally  
20.16 traditional healing practices; (7) detoxification practices and therapies; (8) energetic healing;  
20.17 (9) polarity therapy; (10) folk practices; (11) healing practices utilizing food, food  
20.18 supplements, nutrients, and the physical forces of heat, cold, water, touch, and light; (12)  
20.19 Gerson therapy and colostrum therapy; (13) healing touch; (14) herbology or herbalism;  
20.20 (15) homeopathy; (16) nondiagnostic iridology; (17) body work, ~~massage, and massage~~  
20.21 ~~therapy~~ somatic movement therapy and movement education, structural integration practices,  
20.22 and reflexology practices; (18) meditation; (19) mind-body healing practices; (20)  
20.23 naturopathy; (21) noninvasive instrumentalities; and (22) traditional Oriental practices, such  
20.24 as Qi Gong energy healing.

20.25 (b) Complementary and alternative health care practices do not include surgery, x-ray  
20.26 radiation, administering or dispensing legend drugs and controlled substances, practices  
20.27 that invade the human body by puncture of the skin, setting fractures, the use of medical  
20.28 devices as defined in section 147A.01, any practice included in the practice of dentistry as  
20.29 defined in section 150A.05, subdivision 1, or the manipulation or adjustment of articulations  
20.30 of joints or the spine as described in section 146.23 or 148.01.

21.1 (c) Complementary and alternative health care practices do not include practices that  
21.2 are permitted under section 147.09, clause (11), or 148.271, clause (5).

21.3 (d) This chapter does not apply to, control, prevent, or restrict the practice, service, or  
21.4 activity of lawfully marketing or distributing food products, including dietary supplements  
21.5 as defined in the federal Dietary Supplement Health and Education Act, educating customers  
21.6 about such products, or explaining the uses of such products. Under Minnesota law, an  
21.7 unlicensed complementary and alternative health care practitioner may not provide a medical  
21.8 diagnosis or recommend discontinuance of medically prescribed treatments.

21.9 **EFFECTIVE DATE.** This section is effective January 1, 2024.

21.10 Sec. 2. Minnesota Statutes 2022, section 146A.06, subdivision 3, is amended to read:

21.11 Subd. 3. **Exchanging information.** (a) The office shall establish internal operating  
21.12 procedures for:

21.13 (1) exchanging information with state boards; agencies, including the Office of  
21.14 Ombudsman for Mental Health and Developmental Disabilities; health-related and law  
21.15 enforcement facilities; departments responsible for licensing health-related occupations,  
21.16 facilities, and programs; and law enforcement personnel in this and other states; and

21.17 (2) coordinating investigations involving matters within the jurisdiction of more than  
21.18 one regulatory agency.

21.19 (b) The procedures for exchanging information must provide for the forwarding to the  
21.20 entities described in paragraph (a), clause (1), of information and evidence, including the  
21.21 results of investigations, that are relevant to matters within the regulatory jurisdiction of  
21.22 the organizations in paragraph (a). The data have the same classification in the hands of the  
21.23 agency receiving the data as they have in the hands of the agency providing the data.

21.24 (c) The office shall establish procedures for exchanging information with other states  
21.25 regarding disciplinary action against unlicensed complementary and alternative health care  
21.26 practitioners.

21.27 (d) The office shall forward to another governmental agency any complaints received  
21.28 by the office that do not relate to the office's jurisdiction but that relate to matters within  
21.29 the jurisdiction of the other governmental agency. The agency to which a complaint is  
21.30 forwarded shall advise the office of the disposition of the complaint. A complaint or other  
21.31 information received by another governmental agency relating to a statute or rule that the  
21.32 office is empowered to enforce must be forwarded to the office to be processed in accordance  
21.33 with this section.

22.1 (e) The office shall furnish to a person who made a complaint a description of the actions  
22.2 of the office relating to the complaint.

22.3 (f) The office shall report to the Board of Nursing all final disciplinary actions against  
22.4 individuals practicing massage therapy or Asian bodywork therapy as unlicensed  
22.5 complementary and alternative health care practitioners. Upon request by the Board of  
22.6 Nursing, the office must share all complaint, investigatory, and disciplinary data regarding  
22.7 a named individual who has practiced or is practicing massage therapy or Asian bodywork  
22.8 therapy as an unlicensed complementary and alternative health care practitioner.

22.9 **EFFECTIVE DATE.** This section is effective January 1, 2024.

22.10 Sec. 3. Minnesota Statutes 2022, section 146A.09, is amended by adding a subdivision to  
22.11 read:

22.12 Subd. 8. **Licensed massage therapists.** A person whose licensure as a massage therapist  
22.13 or Asian bodywork therapist under sections 148.635 to 148.6363 has been suspended or  
22.14 revoked by the Board of Nursing must not practice as an unlicensed complementary and  
22.15 alternative health care practitioner under this chapter during a period of suspension or  
22.16 revocation.

22.17 **EFFECTIVE DATE.** This section is effective January 1, 2024.

## CITY COUNCIL WORK SESSION MEETING

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

<b>ITEM:</b>	<b>Update to 9.106 General Development Standards to Include Tree Preservation</b>								
<b>DEPARTMENT:</b> Community Development		<b>BY/DATE:</b> Andrew Boucher, City Planner April 1, 2024							
<p><b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i></p> <table> <tr> <td><input checked="" type="checkbox"/> Healthy and Safe Community</td><td><input type="checkbox"/> Thriving and Vibrant Destination Community</td></tr> <tr> <td><input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly</td><td><input type="checkbox"/> Strong Infrastructure and Public Services</td></tr> <tr> <td><input type="checkbox"/> Trusted and Engaged Leadership</td><td><input checked="" type="checkbox"/> Sustainable</td></tr> </table>				<input checked="" type="checkbox"/> Healthy and Safe Community	<input type="checkbox"/> Thriving and Vibrant Destination Community	<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly	<input type="checkbox"/> Strong Infrastructure and Public Services	<input type="checkbox"/> Trusted and Engaged Leadership	<input checked="" type="checkbox"/> Sustainable
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### BACKGROUND:

Tree preservation, landscaping, and the urban canopy have been identified by the City of Columbia Heights through 2040 Comprehensive Plan goals per Land Use and Redevelopment Goals and Policies to provide a natural buffer between uses and promote community health. However, the current Zoning Code does not specifically address tree preservation or planting standards and should include measures to ensure the long-term health and safety are maintained during the development process and so trees can mature in a way that they are productive and beneficial to the urban canopy.

The City's 2040 Comprehensive Plan identifies community resilience, climate adaptation, public health, equity, and sustainability as Emerging Topics. One of the key land use goals identified in the 2040 Comprehensive Plan includes enhancing community gateways, prioritizing landscaping and other forms of buffering between uses, and continuing the City's participation in Tree City USA. By using the most recent versions of the ANSI A300 and ISA Best Management Practices for tree management during construction as well as the MN DNR "Pocket Guide to Planting Trees", the amendment to City Code (9.106 General Development Standards) to include tree preservation language and planting standards in the Landscaping and Screening section would reflect industry and agency standards and best practices.

Columbia Heights can maintain and enhance the urban canopy by:

- Applying preservation, protection, and replacement standards of Protected Trees to all permits that require a survey and including the City Forester in the review process to approve tree inventory and protection plans as well as conducting inspections.
- Establishing standards for the removal of protected and removable trees as well as newly planted and replacement trees to ensure diversity and resiliency of the canopy, soil volume requirements and formulas for calculating soil volume, and defining protected tree varieties.
- Defining replacement requirements based on size and plantings in accordance with the standards set forth in the MN Department of Natural Resources publication "Pocket Guide to Planting Trees"
- Adjusting the letter of credit or other security, as acceptable to the city, from 10% of the tree, landscaping, and screening estimated cost to an amount equal to the estimated cost. The letter of

credit or other security as acceptable to the city, or portions, thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the City may be released after one growing season; after two growing seasons, the security can be released minus costs incurred through damage or replacement.

### **SUMMARY OF CURRENT STATUS:**

At the time, staff felt it was necessary to amend the existing ordinances to establish a process to include the City Forester in development review and adopt standards aligned with industry and agency best practices as well as reflecting the securities and letter of credit language that is seen across municipalities. The ordinance currently does not reflect the most up-to-date information, standards, or processes that ensure successfully mature tree canopies or preservation of the existing canopy.

The 6<sup>th</sup> U.S. Circuit Court of Appeals in *F.P. Development, LLC vs. Charter Township of Canton, Michigan* found that, Canton's ordinance classification of certain trees as "significant trees", created permitting requirements, restricted tree removal, and required mitigation for removal. A property owner that removed trees was required to either pay into a town fund or replant trees; the town enforced action against a developer that removed 159 trees and argued that, under the ordinance, the developer had to replant trees or pay the town approximately \$50,000. The 6<sup>th</sup> Circuit found that the ordinance violated the Fifth Amendment's "unconstitutional conditions" doctrine, if a permit is conditioned on the waiver of constitutional rights, then the local government permitting may be found unconstitutional.

Local governments may choose whether and how a permit applicant mitigates developmental impacts, but they must establish an "essential nexus and rough proportionality to those impacts" and "make some sort of individualized determination that the required mitigation is related both in nature and extent to the impact of the proposed development."

Tree preservation ordinances were examined by peer-reviewing other cities such as Fridley, New Hope, Shakopee, St. Anthony's Village, Maple Grove, and Minneapolis for key components. Fridley, St. Anthony's Village, and Minneapolis do not have tree preservation ordinances. Additionally, staff has consulted with the League of Minnesota Cities and the City Forester for their guidance on what a model ordinance should include.

### **STAFF RECOMMENDATION:**

Staff recommends that the City Council direct staff on whether to pursue a tree preservation and planting standards ordinance and have the City Attorney review the proposed language for purposes of determining if the ordinance establishes an essential nexus and rough proportionality and documents an individualized determination process after applying the standards.

### **ATTACHMENT(S):**

Existing Code

Proposed Code

Tree Preservation – League of Minnesota Cities

New Hope Tree Preservation and Replacement Ordinance

Shakopee Tree Preservation Ordinance

Maple Grove Tree

(M) *Landscaping and screening.*

(1) *Purpose.* Landscaping and screening requirements are established to buffer non-compatible land uses, screen unsightly views, reduce noise and glare, minimize storm water runoff, and generally enhance the quality and appearance of development within the community.

(2) *Landscape plan required.* A landscape plan is required for all new commercial, industrial, institutional and multi-family development. For development having an anticipated construction value in excess of \$750,000, the landscape plan must be prepared by a landscape architect registered in the State of Minnesota. Said landscape plan shall include the location, size, quantity and species of all existing and proposed plant materials.

(3) *Design considerations.* The following design concepts and requirements should be considered when developing a landscape plan for submittal to the city:

(a) To the maximum extent possible, the landscape plan shall incorporate existing vegetative features on the site.

(b) The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.

(c) Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from both pedestrian and vehicular traffic, and provide adequate area for plant maintenance.

(d) A variety of trees and shrubs should be used to provide visual interest year round. No more than 50% of the required number of trees or shrubs may be comprised of any one species. No less than 25% of the required number of trees shall be over-story deciduous trees and no less than 25% shall be coniferous.

(e) Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls or special ground covers.

(f) All plant materials shall meet the following minimum size standards:

Plant Type	Minimum Size at Planting
Plant Type	Minimum Size at Planting
Trees	
Evergreen	6 feet in height
Deciduous—over-story	2.5 inches diameter, measured 2 feet from base
Deciduous—ornamental	2 inches diameter, measured 2 feet from base
Shrubs	
Evergreen	2 feet in height
Deciduous	2 feet in height

Screening shrubs—either	3 feet in height
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(4) *Landscaping requirements.* Landscaping shall be provided in accordance with the following requirements:

(a) All required setbacks shall be landscaped with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.

(b) A minimum of one tree shall be planted for every 50 feet of street frontage or fraction thereof. The trees shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.

(c) A minimum of four trees shall be planted for every one acre of lot area covered by buildings, parking areas, loading areas, exterior storage areas and other impervious surfaces.

(d) Parking areas shall have a minimum of 100 square feet of landscape area and one over- story tree for each 20 spaces or, fraction thereof. The remainder of the landscape area shall be covered with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.

(5) *Screening requirements.* Screening shall be provided in accordance with the following requirements:

(a) All off-street parking areas containing six or more parking spaces and located adjacent to a residential or residentially zoned property, the parking area shall be screened along the boundary with the residential use. Where any commercial or industrial use is located adjacent to or across a public alley from a residential or a residentially zoned property, the commercial or industrial use shall be screened along the boundary with the residential use.

(b) Exterior storage of materials or equipment, except for allowed retail sales and temporary placement of equipment, shall be screened from all adjacent non-industrial uses and from the public right-of-way.

(c) Required screening shall consist of a fence, wall, earthen berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis. Said screening shall be located as close to the property line as practicable and no closer than 15 feet from the edge of a public right-of-way.

(6) *Installation and maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.

(a) All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy.

(b) A letter of credit or other security as acceptable to the city shall be deposited with the Zoning Administrator, in an amount equal to 10% of the estimated cost of landscaping and/or screening. The letter of credit or other security as acceptable to the city, or portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the city may be released after one growing season as determined by the Zoning Administrator.

(c) The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.

(7) *Screening of parking areas from adjacent properties.* All parking and loading areas (including drive-through facilities, pump island service areas and stacking spaces) abutting a public street or sidewalk shall provide:

(a) A landscaped frontage strip at least five feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required landscaped frontage strip shall be increased to eight feet in width.

(b) Screening consisting of either a masonry wall, fence, berm or hedge or combination that forms a screen a minimum of three feet in height, a maximum of four and one half feet in height, and not less than 50% opaque on a year-round basis. For reasons of personal safety and security, parking lot screening should allow clear visibility of pedestrians above the three-foot high viewing range.

(c) Trees shall be planted at regular intervals of no greater than 50 feet within the frontage strip.



(M) ***Tree Preservation and Planting Standards for Landscaping and Screening.***

- (1) ***Purpose.*** The City of Columbia Heights recognizes the great value trees, landscaping, and screening provide to all residents of the City. A healthy, resilient, and robust urban forest enhances the aesthetic, environmental, and economic well-being of the City. Tree preservation and planting standards, landscaping and screening requirements are established to buffer non-compatible land uses, screen unsightly views, reduce noise and glare, minimize storm water runoff, and generally enhance the quality and appearance of development within the community.
  - a. **Preserve and increase the tree canopy cover of Columbia Heights by protecting mature trees throughout the City.**
  - b. **Protect and enhance property values by conserving trees.**
  - c. **Improve quality of life for all stakeholders, including residents, visitors, and wildlife.**
  - d. **Preserve and increase the environmental services provided by the urban forest including sequestration of CO<sub>2</sub>, erosion and stormwater mitigation, reduction of air pollutants, reduction of the urban heat island effect, and reduction of noise pollution.**
  - e. **Protect and maintain healthy trees in the development and building permit process. Protect and maintain healthy trees by ensuring best tree protection practices during construction and development.**
- (2) ***Preservation, protection, and replacement of Protected Trees:***
  - a. **This ordinance applies to all demolition, building permit applications, and land alteration permits, public or private, that require a survey.**
  - b. **Definitions:**
    - i. **Protected Tree: Any tree variety on the List of Protected Tree Varieties as maintained and published by City staff with a diameter of 6" or greater as measured at 4.5' above ground (DBH, Diameter at Breast Height). The List of Protected Tree Varieties may be amended from time to time.**
    - ii. **Removable Tree: Any tree not defined as a Protected Tree.**
    - iii. **City-Owned Tree: Any tree originating within the City right-of-way or originating from a City park or City-owned property.**
  - c. **Demolition and building permit applications must include a construction tree inventory plan indicating the location, species, and diameter of the trunk at 4.5' above the ground (DBH) for all Protected Trees on the property and City-Owned Trees on or adjacent to the construction site. The plan must also indicate any Protected Trees that are proposed to be removed, as well as their replacement tree(s) location, species, and size. Applications must also include a tree protection plan describing in detail how Protected Trees and City-Owned Trees will be preserved and protected during construction. The tree protection plan shall follow the standards as presented in the most recent version of the following publications:**
    - i. **ANSI A300 Part 5- Management of Trees and Shrubs During Site Planning, Site Development, and Construction**

- ii. **ISA Best Management Practices- Managing Trees During Construction**
- d. **The construction tree inventory plan and tree protection plan must be reviewed and approved by the City Forester. Approved tree protection measures shall be fully installed and inspected by City staff prior to commencement of any construction activities or vehicular traffic on site.**
- e. **During the demolition and building process, the permit holder shall not leave any Protected Tree or adjacent City-owned tree without sufficient guards and protections to prevent injury to the protected tree during construction. Tree protection shall follow the standards as presented in the publications listed above (3.b.). City Forestry Staff monitoring is required for all projects with affected Protected Trees and/or replacement trees. Replacement trees will be monitored for three (3) years to ensure proper establishment.**
- f. **Protected Tree varieties that are less than 6” in caliper must be moved to another location on the property if possible. Exceptions must be granted in writing by the City Forester.**
- g. **If a Protected Tree is removed, except as allowed for in paragraph 5 below, it is subject to a size-based replacement policy.**
  - i. **Protected trees with DBH 6”-15” are subject to a 2:1, “two for one” replacement requirement.**
  - ii. **Protected trees with DBH 15”-20” are subject to a 3:1, “three for one” replacement requirement.**
  - iii. **Protected trees with DBH 20”-25” are subject to a 4:1, “four for one” replacement requirement.**
  - iv. **Protected trees with DBH >25” are subject to a 5:1, “five for one” replacement requirement.**
  - v. **Replacement trees must be varied by species and are subject to approval by the City Forester.**
  - vi. **Replacement trees are subject to the size and diversity requirements as outlined below.**
  - vii. **A payment of \$400 for each tree may be made to the City in lieu of planting replacement trees where sufficient space does not exist on the property. Payments will support the planting of replacement trees by City staff on City property.**
  - viii. **Replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication “A Pocket Guide to Planting Trees”. All replacement trees are subject to inspection by City staff for a period of 2 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.**
- (3) **Removal of Protected and Removable Trees:**
  - a. **Protected Trees may be removed in the following areas:**

- i. **Within the footprint of the building pad of a new or remodeled building, or within a 10' radius of the footprint.**
    - ii. **Within driveways and parking areas meeting all other City ordinance requirements.**
  - b. **Protected Trees removed in accordance with sections (i.) and (ii.) above are required to be replaced at a rate of 1:1, "one for one." Replacement trees are subject to all requirements listed in paragraph (3.) above.**
  - c. **Removable Trees may be removed for any development or building permit without replacement.**
  - d. **If Protected Trees are dead, diseased, or hazardous their removal must be approved in writing by the City Forester before removal. Dead, diseased, or hazardous trees are not subject to replacement requirements.**
- (4) Exemptions from Tree Preservation Ordinance: Tree removal on property with an existing building or structure that is not being modified is exempt from this ordinance.**
- (5) Standards for Newly Planted Trees and Replacement Trees**
- a. *Landscaping and screening.*
    - i. *Landscape plan required.* A landscape plan is required for all new commercial, industrial, institutional, and multi-family development. For development having an anticipated construction value in excess of \$750,000, the landscape plan must be prepared by a landscape architect registered in the State of Minnesota. Said landscape plan shall include the location, size, quantity, and species of all existing and proposed plant materials.
    - ii. *Design considerations.* The following design concepts and requirements should be considered when developing a landscape plan for submittal to the city:
      - 1. To the maximum extent possible, the landscape plan shall incorporate existing vegetative features on the site.
      - 2. The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.
      - 3. The City of Columbia Heights is committed to enhancing the diversity and resiliency of its urban forest. A variety of trees and shrubs shall be used to provide visual interest year-round and meet diversity requirements. No more than 10% of the required number of trees or shrubs may be comprised of any one species, no more than 15% from any one genus, and no more than 20% from any one family. No less than 50% of the required number of trees shall be over-story deciduous trees and no less than 10% shall be coniferous. New trees and replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication "A Pocket Guide to Planting Trees".

All replacement trees are subject to inspection by City staff for a period of 3 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.

4. Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls or special ground covers.
5. All plant materials shall meet the minimum size standards listed in Table 1; **all planting locations shall meet the soil volume requirements for the plant material listed in Table 2. Soil volume requirements must be met by contiguous, uncompacted soil suitable for the plant type. Soil depth beyond 3 feet shall not be counted towards soil volume requirements. Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from both pedestrian and vehicular traffic, and provide adequate area for plant maintenance. Definitions and rules for calculating soil volume provided in Appendix B.**

Table 1: Plant Size Requirements

Plant Type	Minimum Size at Planting
Trees	
Evergreen-over-story	6 feet in height
Evergreen—ornamental	6 feet in height
Deciduous—over-story	2.5 inches diameter, measured 2 feet from base
Deciduous—ornamental	2 inches diameter, measured 2 feet from base
Shrubs	
Evergreen	2 feet in height
Deciduous	2 feet in height
Screening shrubs—either	3 feet in height

Table 2: Soil Volume Requirements

Expected Tree Size at Maturity	Minimum Soil Volume Requirement (ft <sup>3</sup> )
Small trees: 10-25 ft crown spread, 8-12" mature DBH	400
Medium trees: 25-35 ft crown spread, 12-18" mature DBH	800
Large trees: 35+ ft crown spread, 18"+ mature DBH	1200

**Appendix A: List of Protected Tree Varieties**

Common Name	Botanical Name
Birch	<i>Betula spp.</i>
Buckeye, Ohio	<i>Aesculus glabra</i>
Catalpa, Northern	<i>Catalpa speciosa</i>
Cedar, Eastern Red	<i>Juniperus virginiana</i>
Cedar, Northern White	<i>Thuja occidentalis</i>
Elm (except Siberian/Asian elms)	<i>Ulmus spp. (Except U. pumila)</i>
Fir, White	<i>Abies concolor</i>
Hackberry	<i>Celtis occidentalis</i>
Hemlock, Eastern	<i>Tsuga canadensis</i>
Hickory	<i>Carya spp.</i>
Honey locust	<i>Gleditsia triacanthos</i>
Ironwood	<i>Ostrya virginiana</i>
Kentucky coffee	<i>Gymnocladus dioica</i>
Linden	<i>Tilia spp.</i>
Maple, Black	<i>Acer nigrum</i>
Maple, Red	<i>Acer rubrum</i>
Maple, Sugar	<i>Acer saccharum</i>
Mountain ash	<i>Sorbus spp.</i>
Oak	<i>Quercus spp.</i>
Pine, Red	<i>Pinus resinosa</i>
Pine, White	<i>Pinus strobus</i>
Spruce, Norway	<i>Picea abies</i>
Spruce, White	<i>Picea glauca</i>
Walnut, Black	<i>Juglans nigra</i>

## Appendix B: Definitions and Rules for Calculating Soil Volume

The following definitions apply to soil media for newly planted trees in the City of Columbia Heights:

***Open soil.*** Exclusively refers to either uncompacted native soils (no greater than 80% Proctor), or amended soils meeting the Minnesota Department of Transportation standards for approved topsoil, that are not covered by hardscape or paved surfaces.

***Available open soil.*** The uncovered length by width of a planting bed, multiplied by depth of preparation up to 36 inches deep. Most unprepared urban subgrade is highly compacted and does not qualify as available.

***Covered soil.*** Soil volume provided below hardscape or paved surfaces in the form of suspended soil cells or structural soil. Only 25% of the volume of structural soils may be counted towards soil volume requirements.

***Shared soil.*** Soil media shared by more than one tree in a planting bed sharing open soil, or an individual tree in a planting bed that is connected to other open soils via Soil Cells or Structural Soil. Areas of shared soil must have a continuous root path that does not restrict to less than 4 feet wide or 2 feet deep.

***Isolated soil.*** Soil media in a tree well or small enclosed planting bed that is not connected to other prepared soil volumes and is totally isolated by hardscape such as driveways, sidewalks, or vaults.

***Connected soil.*** Two or more areas of open soil that are connected below hardscape with either soil cells or structural soil. These connected beds can now qualify as shared soil.

The following standards and exceptions apply to calculating soil volumes:

- 1) The total soil volume provided for a tree shall be calculated in cubic feet by adding the available open soil volume to the available covered soil volume within a 50-foot radius of the tree.
- 2) When total soil volume consists of more than one planter bed or open soil area, those areas must be connected by continuous root paths at least 4 feet wide and 2 feet deep.
- 3) Soil volumes for covered soil shall be calculated by using only the space available to roots and may not include the components providing structure. 90% of the volume of cell-type hardscape suspension systems may be counted towards total soil volume; 25% of the volume of structural soils may be counted towards total soil volume. A

**maximum depth of 36" may be used when calculating total soil volume; depths beyond 36" may not be counted towards soil volume requirements.**

- (6) *Landscaping requirements.* Landscaping shall be provided in accordance with the following requirements:
- All required setbacks shall be landscaped with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.
  - A minimum of one tree shall be planted for every 50 feet of street frontage or fraction thereof. The trees shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.
  - A minimum of four trees shall be planted for every one acre of lot area covered by buildings, parking areas, loading areas, exterior storage areas and other impervious surfaces.
  - Parking areas shall have a minimum of 100 square feet of landscape area and one over- story tree for each 20 spaces or, fraction thereof. The remainder of the landscape area shall be covered with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.
- (7) *Screening requirements.* Screening shall be provided in accordance with the following requirements:
- All off-street parking areas containing six or more parking spaces and located adjacent to a residential or residentially zoned property, the parking area shall be screened along the boundary with the residential use. Where any commercial or industrial use is located adjacent to or across a public alley from a residential or a residentially zoned property, the commercial or industrial use shall be screened along the boundary with the residential use.
  - Exterior storage of materials or equipment, except for allowed retail sales and temporary placement of equipment, shall be screened from all adjacent non-industrial uses and from the public right-of-way.
  - Required screening shall consist of a fence, wall, earthen berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis. Said screening shall be located as close to the property line as practicable and no closer than 15 feet from the edge of a public right-of-way.
- (8) *Installation and maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.
- All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy.
  - A letter of credit or other security as acceptable to the city shall be deposited with the Zoning Administrator, in an amount equal to 10% of the estimated cost of landscaping and/or screening. The letter of credit or

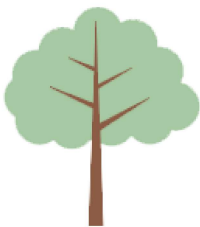
other security as acceptable to the city, or portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the city may be released after one growing season as determined by the Zoning Administrator.

- c. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.
- (9) *Screening of parking areas from adjacent properties.* All parking and loading areas (including drive-through facilities, pump island service areas and stacking spaces) abutting a public street or sidewalk shall provide:
- a. A landscaped frontage strip at least five feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required landscaped frontage strip shall be increased to eight feet in width.
  - b. Screening consisting of either a masonry wall, fence, berm or hedge or combination that forms a screen a minimum of three feet in height, a maximum of four and one half feet in height, and not less than 50% opaque on a year-round basis. For reasons of personal safety and security, parking lot screening should allow clear visibility of pedestrians above the three-foot high viewing range.
  - c. Trees shall be planted at regular intervals of no greater than 50 feet within the frontage strip.



# Constitutional Law: Make Sure Your City's Regulations Don't Bark Up the Wrong Tree

*By Sam Ketchum and Joe Sathe*



We Minnesotans love our trees almost as much as we love our loons, the State Fair, and our sports teams. This love sometimes translates into laws, such as local tree preservation requirements.

Last October, a Michigan town's tree preservation ordinance was the center of a decision by the 6th U.S. Circuit Court of Appeals in *F.P. Development, LLC v. Charter Township of Canton, Michigan*, 16 F. 4th 198 (6th Cir. 2021).

While Minnesota is in the 8th Circuit, where the impact of this decision is unclear, the decision provides insight on the constitutional limits of all local tree regulations. If your city has or is considering tree regulations, you should ensure they don't, well, bark up the wrong tree.

## Canton decision summary

Canton's ordinance classified certain trees as "significant trees," created permitting requirements, restricted tree removal, and required mitigation for removal. A property owner that removed trees was required to either pay into a town fund or replant trees.

The town's legal problems began after it brought an enforcement action against a developer that removed 159 trees. The town argued that, under its ordinance, the developer was required to either replant trees or pay the town approximately \$50,000.

The developer sued the town and alleged that the ordinance was (1) an unconstitutional taking under the Fifth and 14th Amendments, (2) an unreasonable seizure under the Fourth and 14th Amendments, and (3) an excessive fine under the Eighth and 14th Amendments.



After a district court decision and appeals, the 6th Circuit determined that Canton's ordinance violated the Fifth Amendment's "unconstitutional conditions" doctrine. Under the doctrine, local government permitting may be found unconstitutional if a permit is conditioned on the waiver of constitutional rights.

Additionally, while local governments may choose whether and how a permit applicant mitigates developmental impacts, they are prohibited from enforcing requirements that "lack an essential nexus and rough proportionality to those impacts."



The judge concluded that the town's enforcement of its mitigation requirement was not proportional and, therefore, was an unconstitutional condition. He stated that the town was required to "make some sort of individualized determination that the required [mitigation] is related both in nature and extent to the impact of the proposed development."

So, what's an "individualized determination?" The 6th Circuit noted that Canton's required payment was based on outdated calculations. It also noted that the town did not demonstrate that the specific tree removal would cause environmental degradation or improve the surrounding environment.

This suggests that the town was required to consider site- and tree-specific factors. Practically speaking, a local government's ability to consider and document such factors may be a barrier to enforcing local tree regulations.

## Tree regulations under Minnesota law

Again, it's unclear exactly how the Canton decision impacts Minnesota. The 8th U.S. Circuit Court of Appeals and Minnesota state courts have not addressed this issue. But the case received national attention and provides insight into the constitutional limits of local government permitting, especially regarding tree regulations.

Also, Minnesota courts have dealt with other tree issues. For example, the Minnesota Supreme Court has upheld the denial of a subdivision plat on the basis that the project would threaten vegetation on the lot and surrounding property, increase the possibility of disease and wind damage, and disrupt wildlife habitat. The Minnesota Supreme Court has also determined that townships must provide due process prior to removing trees from a public right of way.

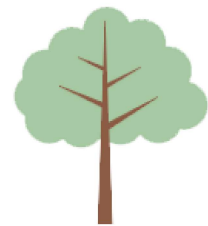
In addition, Minnesota statutes authorize and limit local governments' involvement with trees. State legislation permits local regulations to address "vegetation" and "ecologic features." This legislation has generally been cited to support local tree regulation.

Minnesota statutes also provide requirements for certain tree removal on public rights of way. And local governments generally have authority to manage trees on public property, such as parklands.

## Takeaways

Local tree regulation is complex and implicates some constitutional issues. While the Canton decision likely doesn't invalidate your local tree regulations, it also doesn't mean they won't face a similar legal challenge.

Cities should carefully consider enforcement of any tree regulations. For example, they may want to ensure that any mitigation requirement is proportional to the specific site and that any individual determination for mitigation is well-documented.



Finally, local governments should consult their legal counsel, staff, and consultants about what is appropriate before enacting or modifying their tree regulations.

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## New Hope

4.3 c. Tree preservation and replacement. Landscape plans associated with commercial, industrial, multiple family, or institutional uses shall include measures to preserve or replace significant, preferred trees within any site development or redevelopment projects whenever possible, in accordance with this section of the New Hope City Code.

1. Inspection. With submission of a development application, the tree inspector shall conduct a site inspection and identify significant, preferred trees that may be impacted or lost due to site improvements, grading, and/or utility work associated with the project.
2. Preservation measures. The applicant shall include tree preservation measures on the landscape measures that will be put in place during site construction to protect significant, preferred trees, including:
  - a. Snow fencing or polyethylene laminar safety netting placed at the drip line or critical root zones.
  - b. Installation of signage at all tree protection areas that instructs workers to stay out.
  - c. Erosion control methods.
  - d. Tree removal procedures including directional felling away from existing trees to be saved and trenching to separate root systems prior to bulldozing trees or stumps.
  - e. Coordination of utility planning with tree preservation plan to strategically extend utility connections from the street to the building in a manner that protects trees intended to be saved.
  - f. Measures for preventing changes in soil chemistry due to concrete wash-out and leakage or spillage of toxic materials such as fuels or paints.
  - g. No soil disturbance shall occur within the lot until the tree preservation plan is approved and tree protection measures are in place.
  - h. Builders, contractors, or others working on site shall not fill, stockpile materials, or store equipment or vehicles against the trunk of the tree, in the critical root zone, or under the drip line of a tree to be saved.
3. Replacement.
  - a. No tree replacement is required for the following:
    - i. Removal of non-significant, preferred trees.
    - ii. Removal of non-preferred trees/invasive vegetation, nuisance plants or trees that are diseased or dead.
    - iii. Removal of significant, preferred trees within 15 feet of the building footprint of a proposed building or building addition.
  - b. Tree replacement will be required for the loss of any significant, preferred trees from the site due to site grading, construction of parking lots, loading areas, open outdoor storage areas, or stormwater management features.
  - c. The City will require the replacement of all trees at a one-inch to 0.5-inch ratio.
  - d. Replacement trees shall consist of tree(s) from the preferred tree list as defined in section 4-2(b) of the City Code and shall meet the minimum size requirements as set forth in subsection (d)(4)b.1. of this section.

- e. The site landscape plan shall identify tree locations, species, and sizes for replacement trees being planted on site. If the site plan does not offer space for the required number of replacement trees, the city may permit off-site replacement trees planted on public property.
  - f. Any replacement tree which is not alive or healthy, as determined by the tree inspector, or which subsequently dies due to construction activity within two years after the date of project closure, shall be removed by the applicant and replaced with a new healthy tree meeting the same minimum size requirements.
4. Compliance with plan. The applicant shall implement the tree preservation plan prior to and during any construction. The tree protection measures of the plan shall remain in place until all grading and construction activity is terminated, or until a request is made to and approved by the city. The city shall have the right to inspect the development and/or building site in order to determine compliance with the approved tree preservation plan. The city shall determine whether compliance with the tree preservation plan has been met.

Shakopee

### **151.113 Tree Preservation Regulations**

1. *Purpose.* The city regards natural features such as woodlands and bluffs as part of the community's identity, attracting residents and businesses to the area, City Council recognizes that not protecting these assets would have a quantifiable economic, social, and environmental loss. An objective of the city's Comprehensive Plan is to preserve, enhance, and maintain natural wooded areas within the city. This section aims to achieve this objective by encouraging responsible land development through rewarding those who use creative site design and minimize the impact to existing landscape and neighborhood character.
2. *Regulations.* The following requirements and standards shall apply to any tree removal including, a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit variance, or grading permit is required by the city on any parcel of land containing a significant tree. The city is authorized to deny or revoke any permits extended by the city for individuals or organizations in violation of this section.
3. *Applicability.* The following developments are exempt from the requirements for tree replacement:
  1. Any alteration of the tree canopy taking place on a residential property less than two and a half acres in size other than for an initial dwelling;
  2. Home gardens or an individual's home landscaping, repairs, and maintenance work;
  3. Existing agricultural, horticultural, or silvicultural operations. Expansions of existing agricultural operations will be subject to the requirements for tree replacement;
  4. Emergency work to prevent or alleviate immediate damages to life, limb, property, or natural resources. In such event, if tree replacement had been required but for emergency, the obligations of this division (C) shall apply and shall be performed at the earliest reasonable time thereafter;
  5. Maintenance of existing infrastructure by the city is exempt from the requirements of this section.
4. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**APPLICANT.** Any person submitting an application to the city for any activity for which a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit, variance, or grading permit is required on land containing a significant tree.

**BASIC INFRASTRUCTURE.** Includes roads, streets, sidewalks, rights-of-way, sanitary sewer, storm sewer, septic tanks, dram fields, water, natural gas, electric, cable television service, drainage ways, and storm ponds.

**BUILDABLE LAND.** Any land not considered a wetland or easement as defined in the

City Code or a bluff impact zone as defined in the design criteria.

**BUILDING PARAMETER.** The footprint of a building or structure with a distance not to exceed 20 feet in each direction thereof. The area of disturbance on either side of a driveway, when added together, shall not exceed 20 feet.

**CALIPER INCH.** The measurement of a tree trunk measured at 4.5 feet above the root ball.

**COMMON TREE.** Any of the following trees: poplar; red maple; ash; elm; cedar; mulberry; balsam fir; birch; pine; spruce; tamarack; black locust; or other fast growing deciduous trees not listed as an exceptional tree. Trees that are not included in overall tree inventory and are not required to be replaced are ash, buckthorn, willow, fruit trees, cottonwood.

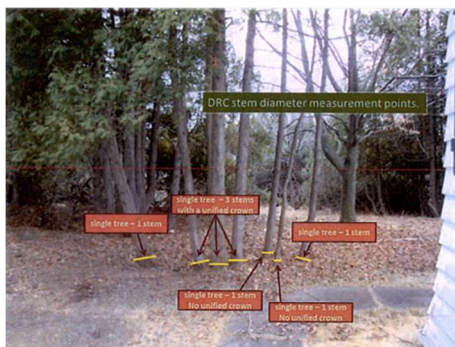
**CONTIGUOUS WOODLAND.** A contiguous tree canopy greater than 2 acres regardless of land ownership.

**CRITICAL ROOT ZONE or CRZ.** A radius of  $1\frac{1}{2}$  feet for every 1 inch of DBH for the tree trunk of the tree being preserved. Example: If a tree's DBH is 10 inches, its CRZ is 15 feet ( $10 \times 1\frac{1}{2} = 15$ ).

**DEVELOPMENT.** Any activity for which a preliminary plat, final plat, minor subdivision, building permit, demolition permit, conditional use permit, variance, fence permit, or grading permit is required on land containing a tree.

**DIAMETER AT BREAST HEIGHT or DBH.** The diameter of the trunk of a tree measured in inches 4  $\frac{1}{2}$  feet above the ground from the uphill side of the tree.

**DIAMETER AT ROOT COLLAR or DRC.** Used for measuring multi-stem trees. Trees are examined to see if they have a unified crown and are counted at each stem and multiplied by .6. Single trees are measured individually if there is no shared canopy.



**EXCEPTIONAL TREE.** Any of the following trees: oak; hickory; basswood; sugar maple;

black maple; cherry; catalpa; walnut; hackberry; hornbeam; coffee tree; butternut;  
buckeye; or horse chestnut.

**FORESTRY SPECIALIST.** A state registered land surveyor, civil engineer, landscape architect, forester, or certified arborist, who is capable of identifying a tree by species. Only an arborist can identify and classify trees that are in poor health or considered hazardous.

**HAZARD TREE.** A tree posing a threat to property or people that has visible hazardous defects such as dead wood, cracks, weak branch unions, decay, cankers, root problems, or poor tree architecture as defined by the U.S. Department of Agriculture, Forest Service, Northeastern Area's publication How to Recognize Hazardous Defects in Trees (NA-FR-01-96).

**HIGH PRIORITY AREA.** A group of three or more exceptional trees ten inches DBH or greater with near contiguous canopies or group of any trees that provide a buffer or screening along an adjacent property or street.

**HIGH PRIORITY TREE.** An exceptional tree 15 inches DBH or greater, or any tree the city has a strong desire to preserve and is declared healthy by the city's staff.

**MULTI-STEM TREE.** A group of trees that share both a unified crown and common root stock. The diameter is recorded as the diameter at root collar.

**REPLACEMENT TREE.** A tree that replaces diameter inches of a removed tree. The number of replacement trees required is based off the number of replacement inches calculated with the "remove:replace" ratio.

**RESIDENTIAL BUILDING PERMIT.** A building permit required for the building of an initial dwelling.

**SIGNIFICANT TREE.** A living specimen of a woody plant species that is either an exceptional tree whose diameter is 4 inches or greater DBH; a common tree whose diameter is six inches or greater DBH, or a multi-stem tree with 2 or more stems measuring four inches or greater in diameter measured above the root collar.

**TREE PRESERVATION PLAN.** The tree inventory, site plan, and tree replacement sheet for a site where an applicant proposes to remove a significant tree.

**TREE PROTECTION FENCE.** Orange snow fencing or polyethylene laminate safety netting placed at the critical root zone of a tree to be preserved.

**TREE REPLACEMENT ESTIMATE.** The city's cost for a three inch balled and burlapped tree for the current year. The city is required to get three quotes per year and post the



chosen quote in the current fee schedule.

**WOODLAND ALTERATION.** Any private or public infrastructure and utility installation, building construction, excavation, grading, clearing, filling, or other earth change on any parcel of land, where any cutting, removal, or killing of a significant tree on any parcel of land will occur. Residential parcels of land less than two and a half acres in size are subject to the requirements in this section only if the **WOODLAND ALTERATION** for an initial dwelling.

**WOODLAND ALTERATION PERMIT.** A permit to allow woodland alteration.

5. *Tree preservation plan requirements.*

1. *Requirements generally.* All applicants are required to submit and follow the approved tree preservation plan.
2. *Requirements of the tree preservation plan.* The tree preservation plan must be completed by a forestry specialist and meet the following requirements.
  1. *Tree inventory.*
    1. The tree inventory must include every significant tree on buildable land on the property where the permit is being applied for. In addition to trees on said property, significant trees on adjacent property which have CRZ overlapping onto said property must be inventoried. Each inventoried tree must be tagged with a unique identification number.
    2. In circumstances where larger areas of the site are not being altered/graded or have no flexibility in planning around significant trees, the applicant may request permission from the city's Planning Department to use a stratified random sample with a fixed area plot to calculate an estimated tree DBH and species for each stratum. The survey results must be within less than 10% of standard error for each stratum. Plots must be marked to allow for replication of survey if necessary.
    3. The applicant must provide a working digital copy and hard copy spreadsheet displaying the following information for each inventoried tree:
      1. Identification number;
      2. Tree size (DBH or DRC);
      3. Tree species;
      4. Tree type (common, exceptional, or high priority);
      5. On-site or off-site (adjacent property);
      6. Critical root zone (if being preserved);
      7. Removed or preserved;
      8. Whether the tree is within a contiguous woodland or high priority area; and
      9. The total diameter inches of both high priority trees and significant trees inventoried must be displayed.

2. *Site plan.*

1. Generally. A scaled drawing of the site including:

1. The location, identification number, and tree type (common, exceptional, or high priority) of all inventoried trees;
2. Proposed trees to remove and preserve;
3. High priority areas and contiguous woodland area;
4. Critical root zones of all trees being preserved along with any area within critical root zone that will be impacted;
5. Proposed construction/grading limits, lot lines, building parameter, basic infrastructure, buildable land, and building footprint/elevation;
6. Locations of tree protection fence and silt fence; and
7. Soil stockpile and parking locations during construction.

2. *Additional requirements.*

1. A survey of the lot meeting all possible requirements of the tree inventory and site plan must be provided to the builder of the lot. The city must be provided a digital copy of the tree survey for each individual lot.
2. Note areas with oak wilt, Dutch elm disease. Emerald Ash Borer, invasive plants such as buckthorn or others listed on the current year's State Department of Agriculture's noxious weed list.

3. *Tree replacement sheet.*

1. The tree replacement sheet is a scaled drawing of the site depicting where the replacement trees will be planted.
2. The plan must include:
  1. Calculations for determination of required replacement trees and landscaping required by division (H) below;
  2. Locations of all trees and other plants being installed on-site;
  3. Plant list including species, size, and stock type of installed plants;
  4. Planting details that meet the city's tree planting specifications; and
  5. Easements, right-of-ways, construction limits, building pads, driveways, and basic infrastructure.
3. *Residential building permit tree preservation plan.* The applicant must complete the city's "residential building-tree preservation plan" as their tree preservation plan which includes a survey meeting all requirements of this division (E) to the city.
4. *Permit prerequisites.* No woodland alteration, grading, or building permits shall be issued by the city until the applicant has installed

any required tree protection fencing and it has been inspected and approved by the city.

5. *Changes to tree preservation plan.* Any changes to the tree preservation plan shall be submitted in writing to the city by the applicant for approval. If the change includes any additional significant tree removal, an additional inspection and approval by the city of the tree protection fencing will be required.
6. *Current tree preservation plan.* All information contained in the tree preservation plan must not be more than two years old at the time of submittal. City staff may grant reasonable exceptions to this requirement for residential builders of an individual lot.
7. *Removal of significant trees.* Significant trees required to be removed pursuant to § 130.17, shall be identified as removed on the tree preservation plan and must be removed. Significant trees that are removed for this reason are exempt from the replacement requirements of this division (E).

6. *Allowable tree removal.*

1. *Generally.*

1. Developers and builders are required to save as many trees as feasible when grading or building a site.
2. When developing the site plan the developer or builder shall:
  1. Identify high priority trees and areas (using the tree inventory) that are most worthy of preservation;
  2. Locate roads, buildings, utilities, parking areas, or other infrastructure so as to minimize their impacts on exceptional and high priority trees;
  3. Preserve trees in groves or clusters recognizing that survivability is greater for groups of trees than individuals;
  4. Manipulate proposed grading and the limits of disturbance by changing the elevation/location of building pads, parking lots, and streets, and consider the use of retaining walls to reduce the impact of the trees; and
  5. Review all construction factors that influence tree survivability.

2. *Standards for site developments.*

Type of Development	Permitted Removal	Caliper Inches Significant Trees Above Permitted Removal	Caliper Inches High Priority Trees	Excluded Trees and Trees Health Classified "Poor"/Hazard Trees

Residential buildings 6 units or less during subdivision	30% of inventoried DBH	1:1 DBH inventoried	1:1.5 (remove: replace)	None
Residential 6 units or less after subdivision	100% DBH within building parameter	None	None	None
Commercial. industrial > 6 unit residential buildings	60% of inventoried DBH	1:1 DBH inventoried	1:1.5 (remove: replace)	None
Redevelopment	60% of inventoried DBH	1:1 DBH inventoried	1:1.5 (remove: replace)	None

1. Tree removal beyond the lot being built on is allowed only for the installation of basic infrastructure. 15% of the inventoried DBH on the buildable land for that lot may be removed without replacement; and
  2. Removal in excess of this 15% requires replacement of 1:1.5 DBH (remove: replace).
  3. For any applicant proposing redevelopment of a lot, 30% of the inventoried DBH on the buildable land for the lot being redeveloped is allowed to be removed without replacement. Removal in excess of this 30% requires replacement of 1:1.5 DBH (remove:replace).
  4. Proposal to remove more than 35% of high priority trees. If an applicant proposes to remove more than 35% of the high priority trees or 25% of a contiguous woodland, based on DBH, the city must be shown site plan alternatives considered by the applicant as evidence an attempt to remove less than said amount of trees was made and an explanation as to why this plan does not work.
7. *Tree preservation requirements.*
1. The applicant must preserve all trees identified to be preserved on the tree preservation plan.
  2. For grading being done between the dates of April 1 and July 31, the CRZ for an oak tree may be increased due to threat of oak wilt. During this time, wound dressing will be applied immediately after damage of an oak tree takes place.
  3. A tree shall be considered removed if:
    1. More than 30% of the CRZ is compacted over 80% of Standard Proctor or 200 PSI, cut, filled, or paved;

2. More than 30% of the circumference of the trunk is damaged;
  3. The hydrology in the area of preserved trees changes due to site grading;  
or
  4. Severe damage to an oak tree takes place between April 1 and July 31.
4. Tree protection fence shall be placed outside of the CRZ of trees being preserved. If fencing is not possible, covering and maintaining the CRZ with geotextile fabric and six plus inches of wood-chip mulch will suffice.
5. There may be no construction activity within the CRZ of a significant tree located on an adjacent property.
8. *Tree replacement standards.*
  1. A replacement tree shall not be any species presently under disease or insect epidemics, considered invasive, or a species that composes a high percentage of the city's urban forest without prior written approval from the city. Recommended species can be found in the city's Forestry Specification Manual.
  2. Replacement trees must meet the planting size requirements for required landscaping.
  3. All replacement trees must be installed during appropriate season for that planting stock.
  4. Replacement trees are not to be installed until exterior construction activities are complete in that area.
  5. If there are greater or equal to 30 trees that are required, they shall be composed of no more than 10% of one species, 20% of one genus, and 30% of one family. If there are less than 30 trees are required, one species shall make up no more than 25% of the total.
  6. Replacement trees shall not be planted in a location that will interfere with other infrastructure or be in extreme competition for resources with other trees at maturity.
  7. The city may accept other vegetative or environmental alternatives proposed by an applicant if those alternatives are monetarily or ecologically equivalent to the value of the replacement trees required by this section.
  8. Replacement trees shall be planted not more than 18 months from the date of the final approved tree replacement sheet as part of the tree preservation plan. Extensions may be requested in writing to the city.
  9. If the number of replacement trees cannot be met on-site, the following is required:
    1. A cash payment of \$400 per replacement tree shall be provided to the city for the planting of trees that are as close as possible to the site that payment was received for or to subsidize trees sold to the city's residents;
    2. Trees may be planted in city-owned or managed land as approved by the city;
    3. Replacement trees may be installed on other properties owned by the applicant within the city. If a buffer area as defined by the natural resource corridor map is on said property, replacement trees shall be planted in this area first.

9. *Unauthorized significant tree removal.*

1. Any person, firm, or corporation who removes or causes the loss of a significant tree identified to be preserved on an approved tree preservation plan or without a permit allowing woodland alteration, shall be required to complete 1 of the following as determined by the city:
  1. Installation of replacement trees within the same development at a 1:2 DBH (remove:replace); or
  2. Payment to the city of \$500 for every one inch of significant tree removed that was unauthorized. Measurement of each tree will be at DBH or diameter of the stump, whichever is readily available. This amount may be taken by the city from the financial security posted by the applicant for tree replacement, if any. A minimum of \$15,000 payment will be required if measurements are unavailable.
2. This provision also applies to a conservation easement area that is disturbed during or after development as well as removing a publicly managed tree of any size without written city authorization.
3. The city may withhold permits from any person, firm, or corporation who fails to complete the requirements above.

10. *Financial security.*

1. The applicant shall provide the city with a cash escrow, or other form of security that the city deems acceptable, in the amount of 150% of the total tree replacement estimate.
  1. Formula. Number of replacement trees x tree replacement estimate x 150%= financial security due.
2. The financial security required for the replacement trees is due prior to the issuance of the grading permit or the commencement of any woodland alteration activity.
3. All replacement trees must be warrantied to guarantee survival. The warranty period shall begin upon inspection and acceptance by city staff of the installed trees for proper planting, size, species, health, and location. If at any time during the warranty period replacement trees are found to be unhealthy by city staff they are required to be replaced with the same size and species by the applicant at the soonest appropriate planting time.
  1. For commercial/industrial sites and residential developers, up to 75% of the financial security may be returned upon inspection and acceptance by the city of installed trees and the submittal of a city-approved two year warranty from the landscape contractor who installed the trees. This warranty must cover tree health issues relating to excess or insufficient water. The remaining financial security will be held by the city for 2 years. When reducing the financial security, 75% will be returned unless city staff feels the trees have a heightened risk of failure.
  2. For builders of individual residential lots within a subdivision who receives a one-year warranty from the landscape contractor who installed the trees, 100% of the financial security will be returned upon:

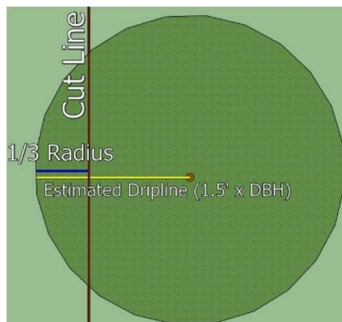
1. Inspection and acceptance of installed trees by the city; and
2. Providing the lot buyer with the copy of the two-year warranty from the landscape contractor and contact information to make a claim on the warranty.
4. If the financial security has not been returned in full after the inspection of the installed trees, at the end of a 2-year warranty period, the applicant shall schedule a final inspection with city staff.
  1. Prior to scheduling the inspection, the applicant shall confirm the following conditions are met:
    1. All trees have 1 dominate leader, are free of deadwood, and injured branches;
    2. All tree wrap is removed;
    3. All stakes and wires are removed; and
    4. Trees are in leaf.
  2. At the time of final inspection the city shall decide to:
    1. Refund the financial security in full; or
    2. Require the planting of new trees to replace the replacement trees which do not survive or are declared unhealthy by city staff. If 25% or more of the replacement trees are required to be replaced, the appropriate amount of financial security will be held for an additional 2 years for said trees.
5. The financial security will be used by the city only if the applicant does not install the initial or subsequent replacement trees required in this chapter.
6. Any trees required to be removed per § 130.17 from a site, shall be removed and disposed of according to § 130.17 prior to release of the financial security.
7. The city shall be exempt from the financial security requirement of this section.
11. *General regulations.*
  1. If the applicant disagrees with the city staff's decision with respect to the interpretation or enforcement of this chapter, the applicant may appeal that decision by following the procedure established in § 151.016.
  2. Land previously planted for commercial tree farm purposes shall be subject to tree replacement requirements as determined appropriate by the city with the maximum requirement being the current allowable tree removal requirements of division (F) above.
  3. Inspections required in this chapter will be conducted by staff from the city's Natural Resources Department or other city staff as assigned.
12. *Effective Date.* This section becomes effective from and after its passage and publication.



Maple Grove: **DIVISION 6. - T TREE PRESERVATION DISTRICT****Sec. 36-728. - Tree preservation standards associated with site development.****[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\)](#) OF SECTION[EMAIL SECTION](#)**

Unless provided otherwise in an approved forest management plan set forth in [section 36-727](#), the conditions following the submission requirements in this section shall apply to removal of trees having a trunk diameter of eight inches or more DBH.

- 1) *Application.* Any person desiring to develop all or part of any property within a T-zone shall submit an application (subdivision, site plan, planned unit development, among others) to the city's community and economic development department together with a filing fee as set forth in [chapter 16](#), article XI, of this Code. Accompanying the appropriate application shall be the following:
  - a) *Tree inventory.* Tree inventory shall include the species, diameter, condition and location of all trees at least eight DBH inches and shall be prepared by a forester, natural resources specialist, certified arborist, landscape architect or another qualified individual. Such qualified individual shall require approval by the community development director.
  - b) *Tree preservation plan.* The tree preservation plan shall show and specify:
    - i) Total diameter inches and species composition of trees at least eight DBH inches to be preserved;
    - ii) Total number of diameter inches of trees at least eight DBH inches to be removed;
    - iii) Limits of tree clearing, tree protection zones and fencing;
    - iv) Location, size and species of replacement trees required in section;
    - v) Construction staging areas for parking and material storage including concrete washout areas;
    - vi) Location of all underground utilities;
    - vii) Dripline analysis showing the approximate location of the dripline from each tree. If a clear dripline cannot be established, said analysis shall estimate the dripline using a 1½-foot radius for the dripline for each inch of tree diameter;
    - viii) Root cutting with a vibratory plow, trencher or other device approved by the director of community and economic development must be conducted along the limits of clearing adjacent to tree preservation areas and a root cutting detail shall be provided;
    - ix) Grading in the dripline shall be no more than one-third the radius of the estimated dripline or the tree shall be counted as removed in the plan. Said grading shall be only on one side of the tree.



- x) Fencing detail for any fencing required under [section 36-730](#).



- xi) Signage details for any required signage under [section 36-730](#).
- xii) All tree removal shall be accounted for with the initial plan and include proposed grading for all lots in a development.
- xiii) For single-family detached residential property, trees within 20 feet of the building pad may be preserved but shall not count as preserved on the retention schedule.
- c) *Sequencing plan*. The sequencing plan shall show the following sequencing schedule:
  - i) Root cutting;
  - ii) Installation of tree protection fence and signage;
  - iii) Grading.
- 2) *Standards of preservation during development*. Development means part of a development proposal under review such as, but not limited to, a planned unit development or subdivision review.
- a.

Development Type	Removal limit before replacement is required (in DBH inches)
Residential (PUD or otherwise)	50%
Industrial (non-PUD)	70%
Commercial (non-PUD)	80%
Industrial and Commercial PUD's	70%

- 3) *Replacement table for planned unit developments*: The replacement for planned unit developments has a replacement ratio that gets higher as removal gets higher and puts a limit on removal. The intent is to limit removal and provide more replacement with more removal.

Residential PUD Replacement Table	Replacement Ratio (replacement inches to removal inches)
Removal up to 50% of DBH inches	0:0

<b>Residential PUD Replacement Table</b>	<b>Replacement Ratio (replacement inches to removal inches)</b>
Removal over 50—55% of DBH inches	2:1
Removal over 55—60% of DBH inches	3:1
Removal over 60—65% of DBH inches	4:1
Removal over 65—70% of DBH inches	5:1
No removal allowed over 70%	

<b>Commercial and Industrial PUD Replacement Table</b>	<b>Replacement Ratio</b>
Removal up to 70% of DBH inches	0:0
Removal over 70—75% of DBH inches	2:1
Removal over 75—80% of DBH inches	3:1
Removal over 80—85% of DBH inches	4:1
Removal over 85—90% of DBH inches	5:1
No removal allowed over 90%	

The replacement ratio shall apply to the entire replacement. For example, removal in a residential PUD of 60 percent would have a 3:1 replacement ratio, 61 percent removal would trigger at 4:1 replacement ratio.

- 4) *Density bonus and transfer for residential development.* As an incentive to retain trees, density bonuses can be considered for preservation. Density bonuses are based on the percentage of trees retained over 50 percent and apply to the area of a project that is in a T-zone. Density bonuses for T-zone preservation can be in addition to any density bonuses in the PUD section.
- For each net acre, or portion thereof, above 50 percent of the T-zone area that is preserved, a density bonus may be considered. Wetland and floodplain areas will not count toward the calculated area of preservation as these areas already have protections.
  - The density bonus shall be based on two times the maximum density of the underlying land use guiding in the comprehensive plan.
  - At least 55 percent of the inches must be retained before the density bonus shall apply.
  - To calculate the total number of units allowed on a site, the bonus units would be added to the number of units using the base density multiplied by the net acres of the site for the particular land use category. The base densities are as follows and are based on historical averages for these land uses:
    - Low-Medium Density: 2.5 units per acre.
    - Medium Density: 6.75 units per acre.
    - High Density: 18 units per acre.
    - Mixed Use High Density: 22 units per acre.
  - Example table for a low-medium density guided site:

Total T-zone Acres	10.0
Percent of T-zone acres preserved	60%
Acres over 50% preserved	1.0
Base Density	2.5 units per acre
Max Density in Comprehensive plan	4.0 units per acre
Density Bonus	8.0 units per acre
Bonus units (1 acre above 50% x Density Bonus)	8
Base units	25

Total Units with Bonus Units	33
Net Density	3.3 units per acre

- f. The additional units can be transferred to the remainder of the site or an alternative site subject to city approval.
  - g. The city may consider flexibility with regard to unit types and lot sizes to accommodate the greater amount of open space that would occur with greater tree preservation. For example, smaller single-family lots or more attached housing in the low-medium residential areas could be considered.
  - h. For sites that have both T-zone areas and non-T-zone areas, density bonuses shall be calculated independently from each other. Open space preservation bonuses would only be gained if open space was created in the non-T-zone area above what is required by code.
  - i. The maximum density in low-medium residential guided land may not be exceeded.
- 5) *Standards of preservation when not connected with a development review.* This section shall govern the development of individual vacant lots and/or new construction in a T-zone in which removal was not previously accounted for through some other review process such as, but not limited to, planned unit development or subdivision review. Note that existing homes proposing additions, or other such improvements, will be subject to the requirements of [section 36-731](#).
- a. *Single-family detached and two-family dwellings.* The builder shall be responsible for working with the community development department for the protection of the trees to be preserved on a particular lot.
    - i. The building pad shall include an area from the front lot line to a line 85 feet behind the front lot line.
    - ii. The building pad shall extend across the entire width of the lot.
    - iii. The builder shall be required to replace trees removed from within the building pad on a basis of one-half inch of replacement for each DBH inch of removal.
    - iv. Trees protected within the building pad may count toward replacement at a ratio of two inches of replacement for every DBH inch of trees protected.
    - v. If trees are removed from the area outside the building pad, they shall be replaced at a ratio of two inches of replacement for each DBH inch removed.
  - b. *Other development types:*

Development Type	Removal limit before replacement is required (in DBH inches)
Attached single-family dwellings and apartments	50%

Development Type	Removal limit before replacement is required (in DBH inches)
Industrial	70%
Commercial	80%

c. Trees removed in excess of the removal limit above shall be replaced at a ratio of two inches of replacement for each DBH inch removed.

- 6) *Standards of preservation in all other circumstances.* Whenever trees are removed under any circumstances other than those identified in subsections (2) and (5) of this section, preservation and replacement ratios set forth in subsection (5) shall apply.

**Sec. 36-729. - Replacement standards.**

- a) As shown on a tree preservation plan required in [section 36-728](#) (1)b, replacement shall occur in the following order:
- In the area from which the trees are removed. For single-family residential developments, or other types of development as determined by the city council, said area shall be common areas, outlots or other lots other than private, individually owned lots.
  - If this is not desirable for the health or survival of the replacement trees, the trees shall be replanted elsewhere within the T-zone from which the trees were removed. For single-family residential developments, or other types of development as determined by the city council, said area shall be common areas, outlots or other lots other than private, individually owned lots.
  - If this is also undesirable for the health or survival of the replacement trees, then the replanting may occur outside of the designated T-zone but shall occur within the development. For single-family residential developments, or other types of development as determined by the city council, said area shall be common areas, outlots or other lots other than private, individually owned lots.
  - If this is not desirable for the health or survival of the replacement trees, then the landowner shall consult and work with the city to determine a better alternative planting location for the replacement trees.
  - Otherwise, at the discretion of the city council, the tree conservation fee shall be paid to the city in an amount as is set forth by the city council in the adopted fee schedule. Funds received by the tree conservation fee will be maintained within a separate account and used to replant trees on public lands or within forest preservation lands.
- b) Any replanting shall be done with overstory trees of the primary species of the affected forest. No more than 20 percent of the replacement trees shall be composed of any one genus. At planting, the trunks of deciduous trees shall be at least 2½ inches DBH. Coniferous trees shall be at least five feet in height.
- c) Replacement trees shall be identified as such until they are eight inches in DBH, shall be considered at least eight inches in DBH regardless of size and shall be treated accordingly for purposes of this division.

- d) A coniferous tree replacement shall be counted at a ratio of one inch DBH for every two feet in height of the coniferous tree.
- e) If any replanting is to occur outside the limits of the T-zone, the parcel on which the replanting occurs shall be rezoned so as to be governed by the provisions of the T-zone.
- f) Any replacement tree required to be planted by [section 36-728](#) shall be in addition to trees required to be planted on any residential lot, including single-family detached, two-family or any lot needing to comply with the requirements of [section 36-831](#), Required landscaping.

**Sec. 36-730. - Requirements before and during construction.**

- a) *Tree protection and preservation standards.*
  - i) Trees designated for preservation shall be protected by a highly visible fence or other temporary structure deemed acceptable by the city. The protection area shall be defined by the projection of the tree dripline downward to the ground. If less protection is necessary due to the proximity of building structures or infrastructure, such reduced protection area shall require approval by the city prior to any construction activity taking place.
  - ii) The location and means of tree protection shall require inspection and approval by the city prior to any construction activity taking place, including any grading work on the site. The city shall also inspect the construction site during construction. The tree protection shall remain in place until the city has conducted an inspection of the lot and has approved the removal of the fencing.
  - iii) No equipment, chemicals, soil deposits or construction materials shall be placed within a protective barrier.
  - iv) Any landscaping activity subsequent to the removal of the barriers shall be accomplished with hand labor.
  - v) If, during construction, activities take place in areas designated for preservation in violation of the above standards, trees in the impacted area may be deemed removed and subject to the penalties in [section 36-722](#) and any necessary replacement requirements.
  - vi) Any tunneling under trees for utilities should be a minimum of two feet underground from the top of the tunnel to minimize root loss.
- b) *Site signage.*
  - (1) Prior to any tree being removed pursuant to subsections [36-728](#)(2) or (3), the property owner shall cause to be posted on the perimeter of the site involved in the development, subdivision, excavation or construction activity signs readily visible to and understandable by the public identifying the trees and activity on the site as being subject to the provisions of T-zone regulations of the city.
  - (2) Such signs will be provided by the city, shall be placed in proximity to planned entrances to the development and shall remain in place until the activity has passed final approval by the city departments monitoring it.
  - (3) In addition, the property owner shall securely attach signs to the tree protection fence required under [section 36-730](#) every 50 feet of protection fencing or portion thereof. Such signs will be provided by the city.

- (4) All site activity that would impact trees shall cease if signage and/or fencing are not in place, until said signage and fencing are deemed adequate by the monitoring city departments.
- c) *Performance guarantee.*
- 1) Based upon the replacement trees identified in [section 36-729](#), and prior to any construction activity taking place, the applicant shall submit a cash escrow, letter of credit or other surety acceptable to the city in the amount of 100 percent of the cost of the replacement trees proposed for the project area. Such surety shall remain in force for two full growing seasons following installation of the replacement trees to guarantee survival. At the end of the second growing season or subsequent two-year period, the city shall review the project area in coordination with the applicant and shall make a determination to:
    - a. Refund the appropriate performance surety; or
    - b. Require the planting of new trees to replace the replacement trees which did not survive the initial or subsequent two full growing seasons or subsequent periods until such time as the replacement trees have survived two full growing seasons.
  - 2) For purposes of this section, all trees shall be alive and in satisfactory growing condition at the end of two full growing seasons. The growing season shall include the period May 1 through September 30. The two-year guarantee period for plant materials installed after the growing season ends shall commence the following year.
- d) *Survey of trees prior to issuance of building permit.* Prior to the issuance of a building permit by the city for a lot within a development subject to the requirements of this section, the applicant for such building permit shall provide a certified survey of the lot or lots for which the building permit is to be issued identifying the location, size and species of all trees eight inches DBH or larger in size. Such survey shall indicate trees that are to be removed, those that are to be saved and any required replacement trees. Diagrams of protective fencing shall be shown on the survey consistent with [section 36-730](#). If required by the city, a tree replacement plan shall be provided complying with the provisions of this section.
- e) *Survey of trees prior to approval of occupancy.* Prior to the city approving final occupancy for any structure contained within a T-zone, the applicant for such occupancy shall provide a certified survey of the lot verifying the information required in subsection (e) of this section. If the city determines that additional tree inches are removed after the completion of site improvements based on the survey, the city shall require additional tree replacement.
- f) Further requirements during subdivision are set forth in [chapter 30](#), pertaining to subdivisions, and include, but are not limited to, [section 30-16\(3\)m](#).

**Sec. 36-731. - Tree preservation standards after site development.**

- a) For all development types, except for single-family detached homes, the tree preservation plan associated with that development shall govern and additional tree removal shall be compared with the removal in the original approval. Any required replacement shall be subject to the requirements of this chapter.

- b) For single-family detached homes, after a certificate of occupancy has been granted, additional removal of trees eight inches in diameter at breast height (DBH) shall require the replacement of one tree for each tree removed. Replacement trees shall meet the requirements of [section 36-729](#).

**Sec. 36-732. - Exceptions.**

The provisions of this division shall not apply to:

- 1) The removal of trees from commercial nurseries or horticultural properties, such as tree farms, orchards or commercial forests. This exception shall not be interpreted to include lumber harvesting incidental to imminent development of the land.
- 2) The removal of trees on public rights-of-way conducted by or on behalf of a federal, state, county, municipal, or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way.
- 3) The removal of trees deemed to be diseased, dying, or dead. Said determination shall be made by a certified arborist, landscape architect or other natural resource professional.
- 4) The removal of any tree which has become or threatens to become a danger to human life or property.
- 5) The removal of any tree by a public utility when such tree has the reasonable potential of endangering the facilities operated by the utility.



**CITY COUNCIL WORK SESSION MEETING**

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

ITEM:	Discussion on Park Dedication		
DEPARTMENT: Community Development		BY/DATE: Andrew Boucher, City Planner; April 1, 2024	
CORE CITY STRATEGIES: (please indicate areas that apply by adding an “X” in front of the selected text below)			
X Healthy and Safe Community		_Thriving and Vibrant Destination Community	
_Equitable, Diverse, Inclusive, and Friendly		X Strong Infrastructure and Public Services	
_Trusted and Engaged Leadership		X Sustainable	

**BACKGROUND:**

Staff examined existing City Code 9.116 Subdivision Regulations with regards to park dedication to determine consistency with current State Statute 462.358 Official Controls, Subdivision Regulation, and Dedication. Staff also reviewed proposed SF No. 4051 clarifying how a statutory or home rule charter city may impose dedication and dedication fees in relation to accessory dwelling units, affordable housing, sacred communities, and senior housing. To comply with the subdivision statute (MN Statute, section 462.358), cities may impose park dedication fees rather than requiring land dedication for public use as long as certain criteria are met. The fee may be “based on the average fair market value of the unplatted land for which park fees have not already been paid” as long as there is an essential nexus between the fees and the municipal purpose sought to be achieved by the fee; and the fee must bear a rough proportionality to the need created by the proposed subdivision or development.

Additionally, staff analyzed the League of Minnesota Cities’ amicus brief and MN Supreme Court’s decision on *Almir Price v. City of Burnsville* regarding the initial recommendation of \$37,804 for park dedication fees and the subsequent recalculation of the fees reducing the amount to \$11,700 after recognizing that the residential land value of the property was significantly lower than that of the commercial land which is what the property was zoned as. The court held that the city made an individualized determination by recalculating the fee using the fair market value of the specific property rather than applying the city’s blanket dedication formula based on the average cost per acre by zoning district. The court found the fee to be legal, but dedications must qualify as proportional to the effect of the development, even if it is a percentage or flat fee.

Staff reviewed the following other peer cities’ ordinances to establish a base minimum, but also determine whether a proportionality study and appeal process are necessary as shown in the attached analysis.

**SUMMARY OF CURRENT STATUS:**

Current city code appears to be consistent with the existing 462.358 and purposed SF No. 4051 with staff requesting clarification from the City Attorney on the following inquiries before any changes are made.

**STAFF RECOMMENDATION:**

Staff recommends updating the existing Parks Master Plan and that the City Attorney review 9.116 Subdivision Regulations to determine:

1. Does the existing city code language (9.116 (b)5a-b), as written, establish a logical connection and “essential nexus between the fees and municipal purpose sought to be achieved by the fee” as well as “the fee must bear a rough proportionality to the need created by the proposed subdivision or development”?
2. Should the existing city code language (9.116 (b)(5e) be revised to include a process for “individualized determination” or appeal process to comply with the “rough proportionality” requirement of the subdivision or does the “sole discretion/may consider a combination of area dedication/cash contribution to total the 10% park dedication contribution” satisfy that requirement?

**ATTACHMENT(S):**

City Code Analysis  
State Statute 462.358  
SF No. 4051  
Andover  
Big Lake  
Maple Grove  
Minneapolis  
Minnetoka  
Richfield  
Roseville  
St. Paul

### Existing City Code – 9.116 Subdivision Regulations

5. Park dedication. It is deemed necessary and consistent with sound city planning to provide in each new proposed plat or subdivision, areas for future development of park and recreational purposes. Each plat shall hereafter provide for a dedication to the municipality, an area not less than 10% of the total proposed area to be subdivided.

a. Such area shall consist of developable and usable land and shall be located so as to serve the present and future needs of the community for recreational or park purposes.

b. The Planning Commission and the Council shall consider the proposed location in relation to existing or contemplated recreational and park sites in other parts of the community and as to the suitability in meeting the requirements of the city's comprehensive plan.

c. The following properties shall not be accepted for purposes of the owner's compliance with divisions (C)(3)(b)5.a. or b. above: Land dedicated or obtained as easements for storm water retention, drainage, roadway and other utility purposes.

d. This requirement may be waived and/or modified by the Council after recommendation by the Planning Commission for one of the following reasons:

i. The enforcement of this provision would act as an extreme hardship to the property owner, because of the size of the tract involved, the topography of the land (zoning areas involved) or the owner has already dedicated comparable areas in other subdivisions in the city.

ii. The owner contributes the cash equivalent to the city for the Parks Capital Improvement Fund of the city. A cash equivalent shall be a sum mutually agreed upon representing 10% of the market value of the tract in an underdeveloped state on the date the preliminary plat is presented to the city.

e. The city, at its sole discretion, may consider a combination of an area dedication and cash contribution to total the 10% park dedication contribution.

### Staff analysis of existing code and consistency with current state statute 462.358 and proposed SF No. 4051:

Buildable area is defined in City Code as area of the lot remaining after the minimum yard or setback requirements have been established; ordinance also includes language stating that any land that has been dedicated or obtained as easements for stormwater retention, drainage, roadway, and other utility purposes. Subdivision regulation states that the dedication shall be an area not less than 10% of the total proposed area to be subdivided.

#### - City Code is consistent.

The City has a capital improvement budget plan and has a parks, trails, and open space component to the 2040 Comprehensive Plan; Planning Commission and City Council must create a logical connection and establish the "essential nexus and rough proportionality" of the dedication/fee being requested based upon ordinance, then make an individualized determination of the development's effect on the surrounding area.

City Code references considering proposed location in relation to existing or contemplated recreational and park sites in other parts of the community and suitability in meeting the requirements of the city's comprehensive plan. City Code also references the ability to waive this requirement for one of the following reasons; enforcement of the provision would create an extreme hardship to the owner, size of the tract involved, topography, or previously already dedicated comparable areas in other subdivisions by the same owner. Other reasons include owner contribution to the Parks Capital Improvement Fund of a cash equivalent representing 10% of the market value of the tract in an underdeveloped state on the date the preliminary plat is presented to the city; as well as a combination of an area dedication and cash contribution to total the 10% park dedication contribution.

- Enforcement of this provision would act as an extreme hardship to the property owner because of the size of the tract involved, the topography of the land, or the owner has already dedicated comparable areas in other subdivisions in the city.
- Owner contributes the cash equivalent to the city for the Parks Capital Improvement Fund of the city. A cash equivalent shall be a sum mutually agreed upon representing 10% of the market value of the tract in an underdeveloped state on the date the preliminary plat is represented to the city.
- The city, at its sole discretion, may consider a combination of an area dedication and cash contribution to total the 10% park dedication contribution.

Staff recommends seeking clarification from the City Attorney on whether the current park dedication code language is consistent with current state statute 462.358 and proposed SF No. 4051, specifically with consideration to 9.116 Subdivision Regulation (b)(5b, d ii, e):

- **Does this code language (9.116 (b)5b) establish “an essential nexus between the fees and the municipal purpose sought to be achieved by the fee; the fee must bear a rough proportionality to the need created by the proposed subdivision or development”?**
- **Should this code language (b)(5e) include a process for an “individualized determination” to comply with the “rough proportionality” requirement of the subdivision or does the sole discretion/may consider a combination of area dedication/cash contribution to total the 10% park dedication contribution satisfy that requirement?**

## **MN Statute 462.358 Official Controls; Subdivision Regulation; Dedication**

### **Subd. 2a. Terms of regulations.**

The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of public areas, trails, walkways, and the planning and design of sites. The regulations may permit the municipality to condition its approval on the construction and installation of utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, bond, or other financial security in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. A municipality may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the municipality for direct costs relating to professional services provided during the review, approval, and inspection of the project. A municipality may only charge the applicant a rate equal to the value of the service to the municipality. Services provided by municipal staff or contract professionals must be billed at an established rate.

### **Subd. 2b. Dedication.**

**(a)** The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, stormwater drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

**(b)** If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).

**(c)** The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the unplatted land for which park fees have not already been paid that is, no later than at the time of final approval or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval. "Fair market value" means the value of the land as determined by the municipality annually based on tax valuation or other relevant data. If the municipality's calculation of valuation is objected to by the applicant, then the value shall be as negotiated between the municipality and the applicant, or based on the market value as determined by the municipality based on an independent appraisal of land in a same or similar land use category.

**(d)** In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

(e) The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

(h) The municipality must not deny the approval of a subdivision based solely on an inadequate supply of parks, open spaces, trails, or recreational facilities within the municipality.

(i) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.

#### **§Subd. 2c.Nexus.**

**(a)** There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

**(b)** If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

**(c)** An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

	Land Dedication/ Rate	Park System Plan Referenced	Waiver/ Modify	Appeal process	Outlines process for combination of cash and land
Minneapolis	Per unit/per employee fee; .01 acres per household for neighborhood and community parks and 100 sq. ft. per employee; \$1,500 per non-exempt unit for residential development; \$200 per development employee	Yes; Parks and Open Space goals and policies of the comprehensive plan and park system plan.	Waiver – no, modify - yes	No	No
St. Paul	9% residential or mixed-used; 4% commercial	Yes; Comprehensive Plan	Yes	No	No
Roseville	10% residential; 5% other	Yes; Parks and Recreation System Master Plan, Pathways Master Plan, and Comprehensive Plan	No	No	No
Minnetonka	10% for land; cash contributions are made according to a fee schedule:  Single dwellings: \$5,000.00/lot	Yes; approved park system in Comprehensive Plan	Yes	Yes; with County District Court	No

	<p>two-family or multiple dwellings: \$5,000.00/ unit</p> <p>office or industrial \$7,000.00/ acre</p> <p>commercial \$8,000.00/ acre</p>				
Richfield	Reasonable portion	No	Yes	No	No
Big Lake	10% residential; 4% commercial	Yes; Comprehensive Plan	No	Yes; applicant may request the prepare (at the applicant's expense) an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. No application shall be deemed complete until that determination is made.	Yes
Andover	10% of land	Yes; Andover Park System Plan; Comprehensive Plan and	Yes; Council may vary from	Yes	Yes



		Comprehensive Park System Plan	these requirements if a development demonstrates unique attributes sufficient for parks and open space included in the development		
Maple Grove	10%; for 9 and more dwelling units per gross acre – 11% plus an additional 1% for each additional dwelling unit per acre over 9; allows for reductions based on affordable units, senior living, higher density; dedication requirements are also broken down by use categories	Yes; comprehensive plan and official map	Yes; based on descriptions of lands	No	Yes

#### Maple Grove:

The city may require the subdivider or developer to make a combination cash and land dedication pursuant to the following formula:

The amount of land which could be required shall be calculated and from the total, minus the actual amount of land the city determines to be needed to fulfill the purposes of the ordinance.

The balance arrived at under the total minus the needed shall be converted into a cash contribution in lieu of land dedication pursuant to a standard formula established by the city, which formula takes into consideration such things as, but not necessarily limited to, the fair market value of the property in the plat, subdivision or development and the percentage of the total park dedication obligation represented by such balance.

#### Big Lake:

City may elect at sole discretion to receive cash or a combination of cash, land, and development of the land for park and/or trail use calculated based upon the following:

At the time of subdivision, a calculation will be conducted to determine the average fair market value of the land to be subdivided, based on annual tax valuation or other relevant data. The average fair market value of the land will be multiplied by the appropriate dedication percentage. The result of this calculation is equal to the total cash value of the park dedication for the project.

- 1) The formula is outlined as follows:
  - a.  $\text{Average Fair Market Value of Land to be Subdivided} \times \text{Percent of Land to be Dedicated} = \text{Total Cash Value of Park Dedication for the Subdivision.}$
- 2) The value of the land dedication, if any, is determined based upon the following formula:
  - a.  $\text{Total Land Dedication Acres} \times \text{Cash Value of Park Dedication for the Subdivision} = \text{Dedicated Land Value.}$
- 3) To determine the combined land and cash dedication requirement, the following formula should be used:
  - a.  $\text{Total Cash Value of Park Dedication for the Subdivision} - \text{Dedicated Land Value} = \text{Cash Dedication Requirement.}$

#### Andover:

If a combination of cash and land dedication is required, the cash contribution to the city would be determined as follows for residential zoned property:

1. Total acreage of plat multiplied by ten percent (10%) (minimum required land dedication) yields the required land to be dedicated.
2. "Total park dedication fee" will be determined by establishing the ultimate number of residential lots that can be achieved (if no park land was dedicated) multiplied by the park dedication fee per unit as per the fee schedule.

3. Divide the "total park dedication fee" from Step 2 by the required land to be dedicated from Step 1. This yields the "fee per acre".
4. Multiply the "fee per acre" from Step 3 by the acres of park to be dedicated, which is to include one half (1/2) of the street right-of-way adjacent to the park. The land must be exclusive of wetlands, slopes exceeding 12% ponding areas, or other features unsuitable for park land. This yields the dollar value of credit for land and for the right-of-way being dedicated.
5. The "total park dedication fee: from Step 2 minus the dollar value of credit for land and right-of-way being dedicated from Step 4 yields the dollar amount and/or balance due in park dedication fee.
6. Credit will be given towards the park dedication fee that is required for areas within the park that were required to be improved by the City and agreed to by the developer or owner. Those improvements may include grading of the park, which must be graded a minimum of two feet above the 100-year flood elevation or three feet above mottled soil or highest anticipated water level, whichever is higher. Improvements may also include, but are not limited to, installation of playground equipment, installation of individual sanitary sewer and water service (not the main lateral lines), and any other item that would relate to development of the park.

Richfield:

Subd. 3. Park dedication. In appropriate plats or subdivisions to be developed for residential uses, the Council may require that a reasonable portion of such land of sufficient size and character be set aside and dedicated to the public for public use as parks and playgrounds. The City has the option to require cash contribution in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment. Any cash contribution received by the City will be placed in a special fund and used only for the acquisition of land for parks and playgrounds or other lawful purposes.

## **MN Statute 462.358 Official Controls; Subdivision Regulation; Dedication**

### **Subd. 2a. Terms of regulations.**

The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of public areas, trails, walkways, and the planning and design of sites. The regulations may permit the municipality to condition its approval on the construction and installation of utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, bond, or other financial security in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. A municipality may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the municipality for direct costs relating to professional services provided during the review, approval, and inspection of the project. A municipality may only charge the applicant a rate equal to the value of the service to the municipality. Services provided by municipal staff or contract professionals must be billed at an established rate.

### **Subd. 2b. Dedication.**

(a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, stormwater drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

(b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).

(c) The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the unplatted land for which park fees have not already been paid that is, no later than at the time of final approval or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval. "Fair market value" means the value of the land as determined by the municipality annually based on tax valuation or other relevant data. If the municipality's calculation of valuation is objected to by the applicant, then the value shall be as negotiated between the municipality and the applicant, or based on the market value as determined by the municipality based on an independent appraisal of land in a same or similar land use category.

(d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

(e) The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

(h) The municipality must not deny the approval of a subdivision based solely on an inadequate supply of parks, open spaces, trails, or recreational facilities within the municipality.

(i) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.

#### **§Subd. 2c.Nexus.**

(a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

SENATE  
STATE OF MINNESOTA  
NINETY-THIRD SESSION

S.F. No. 4051

(SENATE AUTHORS: BOLDON)

DATE	D-PG	OFFICIAL STATUS
02/22/2024	11702	Introduction and first reading Referred to State and Local Government and Veterans

1.1A bill for an act

1.2relating to local government; authorizing cities to impose a public park dedication

1.3fee on certain new property developments; proposing coding for new law in

1.4Minnesota Statutes, chapter 430.

1.5BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6Section 1. [430.16] PUBLIC PARK DEDICATION FEE.

1.7Subdivision 1. Definitions. (a) For purposes of this section, the terms in this subdivision

1.8have the meanings given.

1.9(b) "Accessory dwelling unit" means a secondary dwelling unit to a principal

1.10single-family dwelling within or attached to a single-family dwelling or in a detached

1.11accessory building on the same zoning lot.

1.12(c) "Affordable housing" means housing targeted at households with incomes at or below

1.1360 percent of the area median income, adjusted for household size, as determined by the

1.14United States Department of Housing and Urban Development.

1.15(d) "Sacred community" means a residential settlement established on or contiguous to

1.16the grounds of a religious institution's primary worship location primarily for the purpose

1.17of providing permanent housing for chronically homeless persons, extremely low-income

1.18persons, and designated volunteers.

1.19(e) "Senior housing" means housing intended and operated for occupancy by senior

1.20households with at least 80 percent of the units occupied by senior households and for which

1.21there is publication of and adherence to policies and procedures that demonstrate an intent

1.22by the owner or manager to provide housing for seniors.

2.1 Subd. 2. **Dedication.** (a) A statutory or home rule charter city may require that a  
2.2 reasonable portion of land be dedicated to the public or may impose a dedication fee in  
2.3 conjunction with the construction permit required for new housing units within existing  
2.4 subdivisions and any other development that creates a proportional impact on the park  
2.5 system in the city, wherever located, for public parks, playgrounds, recreational facilities,  
2.6 wetlands, trails, or open space. The dedication of land or dedication fee must be imposed  
2.7 by an ordinance enacted by the city council or other chief governing body of the city.

2.8 (b) The ordinance may establish how federal or state housing tax credits available for  
2.9 single-family affordable housing developments are distributed.

2.10 (c) The ordinance may exempt developments for senior housing units, accessory dwelling  
2.11 units, or sacred community units from the dedication of land or the dedication fee  
2.12 requirements under this section.

2.13 (d) Units meeting affordable housing thresholds in developments for affordable housing  
2.14 are exempt from the dedication of land or the dedication fee requirements under this section.

2.15 Subd. 3. **Dedication fee.** (a) An ordinance enacted under subdivision 2 may set a  
2.16 dedication fee based on current land prices at the time the permit is issued or set a flat fee  
2.17 rate per net new housing unit or other standard basis as an essential nexus between the fees  
2.18 or dedication imposed on the proposed development and the municipal purpose sought to  
2.19 be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality  
2.20 to the need created by the proposed development.

2.21 (b) The ordinance may specify when the dedication fee must be paid, but the ordinance  
2.22 must specify that payment is due no later than the date the construction permit is issued.

the city deems it necessary in those areas that can be served in the future.

- M. Wetland/Stormwater Pond Buffer: Pursuant to Title 13, Chapter 6 of this code a one rod (16.5 feet or 5 meters) wide area abutting a wetland and/or storm water pond that shall be left undisturbed or in its natural condition during the development, building and landscaping phases. The buffer strip shall not be included within the preceding one hundred ten foot (110') buildability requirement. (Ord. 273, 9-2-2003; Amended 9/18/07, Ord. 355))

**11-3-7: PARKS, PLAYGROUNDS, OPEN SPACE AND PUBLIC USES:**

- A. Lands For Public Use Required: Pursuant to Minnesota Statutes Section 462.358, as amended, the City Council of the City of Andover shall require all owners or developers, as a prerequisite to approval of a plat, subdivision or development of land, to convey to the City or dedicate to the public use for park or playground purposes, a reasonable portion of the area being platted, subdivided or developed as hereinafter specified. Said portion to be approved and acceptable to the City, or in lieu thereof, the owners or developers shall, at the option of the City, pay to the City for the use in the acquisition of public parks, open space and playgrounds, development of existing public park and playground sites, and debt retirement in connection with land previously required for public parks and playgrounds. Any park cash contributions for commercial/industrial zoned property is to be determined as identified in Subsection C. Any park cash contributions for residential zoned property are to be determined as identified in Subsection C of this section. The form of contribution (cash or land) shall be decided by the City based upon need and conformance with the approved City Park Comprehensive Plans. (Amended 9/18/07, Ord. 355; Amended 1/2/08; Ord. 361))

B. Dedicated Lands:

1. Requirements: Any land to be dedicated as a requirement of this section shall be reasonably adaptable for use for active park and recreation purposes and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, tree cover, access and location.

Also land dedication shall be selected based on the parkland need defined by the Andover Park System Plan. Active parkland areas shall be exclusive of wetlands, slopes exceeding twelve percent (12%), ponding areas, or other features unsuitable for active park development. The City may accept natural open space or passive park containing unique natural



environmental features as part of the parkland dedication. Selection of park land for dedication shall be at the discretion of the City Council, based on the policies and recommendations of the Comprehensive Plan and the Comprehensive Park System Plan. The Council may vary from these requirements if a development demonstrates unique attributes sufficient for parks and open space included in the development. (Amended 9/18/07, Ord. 355)

2. Maximum Area of Dedicated Land: Developers of land within the City of Andover shall be required to dedicate 10% of land to the city for park, or open space and playground purposes. (Amended 9/18/07, Ord. 355)

C. Cash Contribution In Lieu Of Lands:

1. Amount Determined:

a. In lieu of land dedication, the City may require from the developer or owner a cash contribution which is based on a fee per lot/unit basis for the development of residentially zoned property. In the case of the development of commercial/industrial zoned property, the City may require a cash contribution from the developer or owner which is based on a rate that is commensurate with single family residential (using three units per acre times the current fee per lot unit). These fees<sup>1</sup> are established and adopted by the City Council and are effective for any plat that has not received preliminary plat approval after the date of publication of this title. The fees would also apply to plats that have received preliminary plat approval, but have not received final plat approval by the City Council. If an extension is requested of the preliminary plat beyond the twelve (12) months, the fee that is in effect at the time of the extension is the fee that is to be contributed. Park cash contributions are to be paid to the city prior to the recording of the final plat at the county. The City Council may require the payment at a later time under terms agreed upon in the development agreement. Delayed payment may include interest at a rate set by the city. (Amended 9/18/07, Ord. 355; Amended 1/2/08, Ord. 361)

b. If the applicant or developer does not believe that the fees contained in the city fee schedule (pursuant to this park dedication analysis) fairly and accurately represent the effect of the subdivision on the park or trail system of the city, the applicant or developer may request that the city prepare an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. All costs of said study

<sup>1</sup> See subsection 1-7-3G of this code.

shall be borne by the developer or applicant. If the developer or applicant requests the preparation of such a study, a plat application may proceed as if the fee had been paid, pending a decision on the appeal of dispute over the proposed fee in lieu of dedication if:

1. The applicant puts the City on written notice of the proposed fee in lieu of dedication.
2. Prior to the City's final decision on the application, the fee in lieu of dedication is deposited in escrow, and
3. The applicant appeals under Minnesota State Statute 462.361 within 60 days of approval of the application.

If such appeal is not filed by the deadline, or the applicant does not prevail on the appeal, then the funds paid into the escrow must be transferred to the City. (Amended 9/18/07, Ord. 355)

c. If a combination of cash and land dedication is required, the cash contribution to the city would be determined as follows for residential zoned property:

Step 1: Total acreage of plat multiplied by ten percent (10%) (minimum required land dedication) yields the required land to be dedicated.

Step 2: "Total park dedication fee" will be determined by establishing the ultimate number of residential lots that can be achieved (if no park land was dedicated) multiplied by the park dedication fee per unit as per the fee schedule. (Amended 9/18/07, Ord. 355)

Step 3: Divide the "total park dedication fee" from Step 2 by the required land to be dedicated from Step 1. This yields the "fee per acre". (Amended 9/18/07, Ord. 355)

Step 4: Multiply the "fee per acre" from Step 3 by the acres of park to be dedicated, which is to include one half (1/2) of the street right-of-way adjacent to the park. The land must be exclusive of wetlands, slopes exceeding 12% ponding areas, or other features unsuitable for park land. This yields the dollar value of credit for land and for the right-of-way being dedicated. (Amended 9/18/07, Ord. 355)

Step 5: The "total park dedication fee: from Step 2 minus the dollar

value of credit for land and right-of-way being dedicated from Step 4 yields the dollar amount and/or balance due in park dedication fee. (Amended 9/18/07, Ord. 355)

Step 6: Credit will be given towards the park dedication fee that is required for areas within the park that were required to be improved by the City and agreed to by the developer or owner. Those improvements may include grading of the park, which must be graded a minimum of two feet above the 100-year flood elevation or three feet above mottled soil or highest anticipated water level, whichever is higher. Improvements may also include, but are not limited to, installation of playground equipment, installation of individual sanitary sewer and water service (not the main lateral lines), and any other item that would relate to development of the park. (Amended 9/18/07, Ord. 355)

- D. Density And Open Space Requirements: Land area so conveyed or dedicated for park, open space and playground purposes may not be used by an owner or developer as an allowance for development as set out in the city zoning code. The land shall be in addition to and not in lieu of, open space requirements for Planned Unit Developments pursuant to Title 13, Chapter 3 of this code. (Amended 9/18/07, Ord. 355)
- E. Metes And Bounds Lot Splits: The Park and Recreation Commission may recommend to the City Council a cash payment in lieu of park land on metes and bounds lot splits less than twenty (20) acres in size. Where a cash contribution is required, the owner will be requested to contribute on a fee per lot or fee per unit as required by City Code 1-7-4 for the lot that is being split. The City will have the right to require park dedication for any future subdivision of the property. Credit shall be given for previously paid park dedication. (Amended 9/18/07, Ord. 355)

#### 11-3-8: **TRAILS:**

Cash Contribution for Trails: The City shall have the authority to require a trail fee that will be charged at the time of subdivision. The fee shall be established annually with the City Fee Ordinance and is separate and distinct from the park dedication fee. The fee's intent is to fund regional trails as shown in the Comprehensive Plan. (Amended 9/18/07, Ord. 355)

## Section 1108: Park Dedication

- Subd. 1. As a prerequisite to subdivision approval, a subdivider shall dedicate land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the City's park development fund roughly related to the anticipated effect of the subdivision on the park and trail system.
- Subd. 2. The applicant shall confer with City Staff and the Park Committee to secure a recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds or other public property. The preliminary plat or simple subdivision shall show the location and dimensions of all areas to be dedicated in this manner. Such contribution requirement recommendation(s) will be sent to the City Council for their approval.
- Subd. 3. When a subdivision is proposed, the developer shall make a dedication of land for public park and trail use, as provided for below, or shall pay a fee in lieu of such land dedication as established by City Council Ordinance. Said amount is the City's best estimate of the effect of the subdivision on the City's park system.
1. In all new residential subdivisions, 10 percent of the area subdivided shall be dedicated for public recreation space.
  2. In all new commercial and industrial subdivisions, four (4) percent of the area subdivided shall be dedicated for public recreation space.
  3. The 10 percent land area shall be calculated on the net area, which is the gross area of the subdivided property minus the area of wetlands, lakes and rivers below the ordinary high water mark.
  4. The land dedicated for public recreation shall be in addition to property dedicated for streets, alleys, easements, or other public ways.
  5. No areas may be dedicated for public use until such areas have been approved by the City Council.
- Subd. 4. The City may elect at its sole discretion to receive a cash dedication or a combination of cash, land, and development of the land for park and/or trail use. Cash dedications shall be calculated based upon the following:
1. At the time of subdivision, a calculation will be conducted to determine the average fair market value of the land to be subdivided, based on annual tax valuation or other relevant data. The average fair market value of the land will be multiplied by

the appropriate dedication percentage. The result of this calculation is equal to the total cash value of the park dedication for the project. The formula is outlined as follows:

- a. 
$$\text{Average Fair Market Value of Land to be Subdivided} \times \text{Percent of Land to be Dedicated} = \text{Total Cash Value of Park Dedication for the Subdivision.}$$
2. The value of the land dedication, if any, is determined based upon the following formula:
  - a. 
$$\text{Total Land Dedication Acres} \times \text{Cash Value of Park Dedication for the Subdivision} = \text{Dedicated Land Value}$$
3. To determine the combined land and cash dedication requirement, the following formula should be used:
  - a. 
$$\text{Total Cash Value of Park Dedication for the Subdivision} - \text{Dedicated Land Value} = \text{Cash Dedication Requirement.}$$
- Subd. 5. Park cash contributions are to be calculated and established based on land value at time of final plat. Cash dedications shall be included in the development agreement and paid prior to the City's signature and release of the final plat. For subdivisions that do not require a development agreement, the cash dedication shall be paid before the City releases the signed approval of the subdivision for recording.
- Subd. 6. Cash contributions for parks and trails shall be deposited in the City's park development fund and shall only be used for park acquisition or development, and trail acquisition or development as determined by the City.
- Subd. 7. Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location, and future park needs pursuant to the Comprehensive Plan. Wetlands, ponding areas, and drainage ways shall not be eligible for park dedication credit. Park land to be dedicated shall be above the ordinary high water level. Grades exceeding 12 percent or areas unsuitable for park development will not be considered for dedication unless specifically accepted by the City Council for an intended public purpose. Land with trash, junk, pollutants and/or unwanted structures is not acceptable.
- Subd. 8. When a proposed park, playground, recreation area, school site or other public ground has been indicated in the City's Comprehensive Plan and is located in whole or in part within a proposed plat, it shall be dedicated to the appropriate governmental unit. If the applicant elects not to dedicate an area in excess of the land required hereunder for

such proposed public site, the City may consider acquiring the excess land through purchase or other means.

- Subd. 9. If a new subdivision is designed to be platted in several additions, all public recreation space, school sites or other public use lands in the total subdivision area, except streets, alleys, or easements other than those leading directly to the sites, shall be dedicated at the time of platting of the first addition unless otherwise approved by the City Council. Areas to be dedicated shall be brought to a suitable condition by the developer prior to acceptance by the City.
- Subd. 10. Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Council, against the land or cash dedication requirement for park and recreation purposes, provided the City Council finds it is in the public interest to do so.
- Subd. 11. Property being replatted with the same number of lots and same number of dwelling units shall be exempt from all park land dedication requirements. If the number of lots or the number of dwelling units or principal structures is increased, or if land outside of the previously recorded plat is added, then the park land dedication and/or park cash contributions shall be based on the additional units/lots and on the additional land being added to the plat.
- Subd. 12. If the applicant or developer does not believe that the estimates contained in this Section fairly and accurately represent the effect of the subdivision has on the park or trail system of the City, the applicant or developer may request that the City prepare an in-depth study of the effect of the subdivision on the park and trail system and an estimate of that effect in money and/or land. All costs of such study shall be paid by the developer or applicant. If the developer requests the preparation of such a study, no application for the development shall be deemed complete until the study has been completed and a determination is made as to the appropriate amount of land or money necessary to offset the effects of the subdivision.

## Section 1109: Required Improvements

### 1109.01: Required improvements.

- Subd. 1. All of the required improvements to be installed under the provisions of this chapter shall be done in accordance with any and all City standards, specifications and requirements, and shall be approved by and be subject to the inspection of the City engineer. All of the City's expenses incurred as the result of the required improvements

- (a) *Required.* Pursuant to Minn. Stats. § 462.358, subd. 2b, except as otherwise provided in this section, the city requires all owners or developers, as a prerequisite to approval of a plat, subdivision or development of any land, to convey to the city, or dedicate to the public use, a reasonable portion of any such proposal for public use as streets, roads, sewers, electric, gas and water facilities, stormwater drainage and holding areas or ponds, similar utilities and improvements, or parks, playgrounds, trails or open space, such portions to be approved and acceptable to the city.
- (b) *Suitability of dedicated land.* Any land to be dedicated as a requirement of this section shall be reasonably adaptable for its proposed use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, tree cover, access and location.
- (c) *Park dedication requirements.* Except as otherwise provided in this subsection, subdividers and developers of land within the city shall be required to dedicate to the city for park, playground, trail and public open space purposes the following minimum amounts of land or cash, or both, whichever the city, at its option, shall require. The required dedication shall be made prior to the city's release of the final plat for filing. Subdividers and developers may, however, pay the park dedication fee at any time after the final plat has been approved by the city council. The amount of any required cash contribution shall be calculated based upon rates established by the city and in effect as of the date of the release of the final plat for filing. For purposes of this subsection (c), words such as, but not limited to, "total acreage," "subdivision area," "the property in the plat, subdivision or development," and "the property being platted," whenever such words appear in this subsection or any resolution or policy adopted pursuant thereto, shall mean the gross area of the plat, subdivision or development except any undeveloped outlot that will, by current standards, be required to make the dedication required in this subsection at such time as the outlot is developed, subdivided or platted in the future.

(1) *Residential dedications.*

- a. Land shall be dedicated pursuant to the following schedule, wherein density is calculated by considering the total acreage of the entire plat, subdivision or development being considered:

Dwelling Units per Gross Acre	Dedication Requirement
Less than <u>9</u>	10 percent of subdivision area
<u>9</u> and more	11 percent of subdivision area plus an additional 1 percent for each additional dwelling unit per acre over <u>9</u>

The following schedules shall apply in the specific situations listed below:

Item 7.

1. Developments that include affordable units (affordable as determined by the city) shall receive a 25 percent reduction from the single unit rate for each affordable unit.
2. Developments with multiple dwelling structures that have a density of 14 units per acre, a minimum of eight units per structure and has a common internal access corridor for all units shall receive a 20 percent reduction from the single unit rate for each unit that satisfies the above.
3. Developments that include memory care and assisted living units shall apply the commercial rate to the percentage of memory care and/or assisted living units that are in the project multiplied by the project net acres.

The above schedules shall not be utilized cumulatively.

- b. A cash contribution in lieu of land dedication may be required at the discretion of the city. The cash contribution shall be calculated by the city estimating the fair market value per acre of residential property in the city, and such value shall then be multiplied by ten percent and the resulting figure divided by the average density of residential development existing in the city. The city shall establish the cash contribution by resolution, which shall not exceed the above calculation.
- c. The city may require the subdivider or developer to make a combination cash and land dedication pursuant to the following formula:
  1. The amount of land which could be required in accordance with this chapter shall be calculated.
  2. From the total calculated under subsection c.1 of this subsection, the actual amount of land the city determines to be needed to fulfill the purposes of this subsection c shall be subtracted.
  3. The balance arrived at under subsection c.2 of this subsection shall be converted into a cash contribution in lieu of land dedication pursuant to a standard formula established by the city, which formula takes into consideration such things as, but not necessarily limited to, the fair market value of the property in the plat, subdivision or development and the percentage of the total park dedication obligation represented by such balance.

(2) *Commercial and industrial dedication requirements.*

- a. Land dedication, if required, shall be 7½ percent of the subdivision or development.
- b. If the city requires payment of fees in lieu of land dedication, that fee shall be based upon the same percentage set forth in subsection a of this subsection, multiplied by the acreage of the proposed plat, development or subdivision, and by the council's estimate



as established at least annually by resolution, of the fair market value per acre of undeveloped commercial/industrial land in the community.

- c. Where a combination land and cash dedication is made, the lands dedicated will be deducted from the total park dedication land requirement, and the balance of required dedication acreage will be multiplied by the current council estimate established pursuant to subsection b of this subsection to determine the amount of cash dedication.

(3) *Miscellaneous requirements.* The following requirements apply to all dedications or conveyances for park, playground, trail or public open space purposes:

- a. *Suitability of land.* Land conveyed or dedicated pursuant to the provisions of this subsection (c) must be located outside of drainageways, floodplains and ponding areas after the site has been developed.
- b. *Installation of improvements.* As part of their development contract or site plan approval responsibilities, owners and developers shall be responsible for making certain improvements to the developments for park, playground, trail and public open space purposes, including, but not limited to, finished grading and ground cover for all park, playground, trail and public open spaces within their developments.
- c. *Standards for location.*
  - 1. The park board shall develop and recommend to the city council for adoption standards and guidelines for determining what geographic location of each such development should reasonably be required to be so conveyed or dedicated.
  - 2. Such standards and guidelines may take into consideration the zoning classification to be assigned to the land to be developed, the particular use proposed for such land, amenities to be provided and factors of density and site development as proposed by the owners or developers.
  - 3. The park board shall further recommend changes and amendments from time to time to such standards and guidelines to reflect changes in the usage of land which may occur, changes in zoning classifications and concepts, and changes in planning and development concepts that relate to the development and usages to which land may be put.
- d. *Park board recommendations.* The park board shall, in each case, recommend to the city council the total area and location of such land that the park board feels should be so conveyed or dedicated within the development for park or playground purposes.
- e. *Acquisition of sites proposed on official map or comprehensive plan.* Where a proposed park, playground, trail, open space or other recreational area that has been indicated on the official map and/or comprehensive plan is located in whole or in part within a proposed subdivision, such proposed site shall be designated as such and be dedicated

the city. If the subdivider chooses not to dedicate an area in excess of the land required under this section for such proposed site, the council shall not be required to act to approve or disapprove the plat of the subdivision for a period of 90 days after the subdivider meets all the provisions of this chapter, in order to permit the council to consider the proposed plat and to take the necessary steps to acquire, through purchase or condemnation, all or part of the public site proposed on the official map or comprehensive plan.

- f. *Density and open space requirements under zoning regulations.* Land area so conveyed or dedicated for park, playground, trail and open space purposes may not be used by an owner or developer as an allowance for purposes of calculating the density requirements of the development as set out in chapter 36 and shall be in addition to and not in lieu of open space requirements for planned unit developments pursuant to chapter 36.
- g. *Private open space.* Where private open space for park, playground, trail, open space or other recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the city council against the requirement of dedication for purposes described in this subsection (c), provided the city council finds it is in the public interest to do so and that the following standards are met:
  - 1. Yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space;
  - 2. The private ownership and maintenance of the open space shall be adequately provided for by written agreement;
  - 3. The private open space shall be restricted for park, playground, trail, open space or recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the city council;
  - 4. The proposed private open space must be reasonably adaptable for use for such purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land;
  - 5. Facilities proposed for such purposes must be in substantial accordance with the provisions of the recreational element of the comprehensive plan, and be approved by the city council; and
  - 6. Where such credit is granted, the amount of credit shall not exceed 25 percent of the amount calculated in subsection (c)(1) or (2) of this section, whichever is applicable.
- h.

*Disposition of cash contributions.* The park board shall establish a separate fund into which all cash contributions received from owners and developers in lieu of conveyance or dedication of land for park, playground, trail and open space purposes shall be deposited. The park board shall establish separate budgeting and accounting procedures for such fund and shall make from time to time appropriations from such fund for acquisition of land for such purposes, for developing existing park, playground, trail and open space sites or for debt retirement in connection with land previously acquired for such purposes.

i. *Administrative procedures.* The park board shall establish such administrative procedures as it may deem necessary and required to implement the provisions of this subsection (c).

(4) *Determination of land type.* The determination of whether land is residential, commercial, or industrial shall be based upon the zoning of the particular land for which dedication is required. Zoning classifications shall be categorized as follows:

Zoning	Land Type
R-A, R-1, R-2, R-2b, R-3, R-4, R-5	Residential
B, FF	Commercial
I	Industrial
Planned unit development (PUD), FP, S, and W	See underlying zoning classification
PUD district	See major use approved when zoned PUD

(5) *Waivers.* The park dedication requirement may be waived by the city council in connection with lands described in subsections a and b of this subsection, subject to the requirements of subsections c and d of this subsection. Such lands include:

- a. Land owned by a government or governmental subdivision, which land is or will be devoted to a public purpose; and
- b. Privately owned land that is intended to be maintained or developed so as to contain on at least 90 percent of the gross subdivision area large park-like areas open to use by the public such as a golf course.
- c.

Prior to subdivision approval and any such waiver, the property owner (public or private) must present the city in recordable form a covenant running with the land and satisfactory to the city wherein the owner agrees for himself, his heirs, successors, and assigns to make park dedication for the land according to prevailing requirements at the time dedication is required in any of the following circumstances:

1. Whenever public lands or uses or portions thereof which are otherwise exempt become privately owned and do not or will not meet the 90 percent requirement set forth in this subsection, as measured at the time of the covenant;
  2. Whenever more than ten percent of the gross subdivision area of any privately owned property, as measured at the time of the covenant, becomes developed so as to prevent the public by design or implication from unrestricted access to the land; or
  3. If the actual or intended use of the land changes so as to be inconsistent with the types of public activities and uses set forth in this subsection.
- d. The covenant referred to in subsection c of this subsection shall be filed in the office of the county recorder at the owner's expense at or before the recording of the plat by which the subdivision is accomplished.

(Code 1984, § 350:27; Ord. No. 04-25, § 1, 12-6-2004; Ord. No. 08-14, § 1, 11-3-2008)

*Footnotes:**--- (14) ---*

**Editor's note—** *Pk. Bd. Ord. 2007-103, § 1, adopted July 11, 2007, amended the Code by adding provisions designated as a new Ch. 14. Inasmuch as there already exists provisions so designated, Pk. Bd. Ord. 2007-103 has been included herein as a new Ch. 15 at the discretion of the editor. Subsequently, Pk. Bd. Ord. 2010-Or-101, § 1, adopted July 1, 2010, repealed former Ch. 15 and enacted provisions designated as a new Ch. 15 to read as herein set out. Prior to inclusion of said ordinance, Ch. 15 pertained to park dedication. See also the Park Board Code Comparative Table.*

## PB15-1. - Findings and purpose.

The City Council of the City of Minneapolis and the Park and Recreation Board of the City of Minneapolis jointly find that the preservation and development of parks, playgrounds, recreational facilities, wetlands, trails, and open space areas within the city are essential to maintaining a healthy and desirable environment for residents and persons employed within the city. The value and attractiveness of residential, commercial, and industrial developments to land owners, developers, purchasers, employers, and employees is significantly enhanced by the presence of park and open space amenities.

The city council and park and recreation board find that the development of land for new residential, commercial, and industrial purposes creates a need for park and recreational land and facilities within the city that exceeds current park resources. The city council and park and recreation board find that:

- (1) The National Recreation and Parks Association's guidelines for park system planning are that neighborhood parks have a service area between one-quarter ( $\frac{1}{4}$  to one-half ( $\frac{1}{2}$ ) mile and that the service area for community parks is between one-half ( $\frac{1}{2}$ ) to three (3) miles.
- (2) The Urban Land Institute's guidelines have a one-half ( $\frac{1}{2}$ ) mile service radius for neighborhood parks and a two (2) mile service radius for community parks.
- (3) One (1) of the stated goals of the park board's comprehensive park system plan is to "ensure park access for all residents by providing parks within an easy walk from their homes (no more than six (6) blocks) and achieving a ratio of .01 acres of parkland per household."
- (4) The city's current neighborhood and community parks consist of one thousand seven hundred twenty-nine (1,729) acres.
- (5) The metropolitan council has projected that by the year 2040, forty-six thousand three hundred and sixty (46,360) new households will be added to the city creating a demand for an additional four hundred sixty-four (464) acres of neighborhood and community parkland.
- (6) The metropolitan council projects net new job growth of one hundred thirty-seven thousand three hundred sixty-eight (137,368) by the year 2040, which would create an additional need for three hundred eleven (311) acres of parkland.

It is both appropriate and reasonable that new development contribute to addressing this systemic in rough proportion to the relative burden it will place upon existing park resources. Park dedication requirements are based on the Minneapolis Park and Recreation Board's standard of .01 acres per household for neighborhood and community parks. The average household size for the city as a whole is 2.25 persons per household. The average household size for neighborhoods in the downtown area is smaller with an average household size of 1.48 persons or sixty-six (66) percent of the city's average household size. Parkland dedication for residential development within the downtown area shall be based on sixty-six (66) percent of the land area as that required for the remainder of the city.

Further recognizing that employees of commercial and industrial land uses place demands on parks, albeit to a lower extent than residents, park land dedication for commercial and industrial development is based on one-half ( $\frac{1}{2}$ ) the rate of .01 acres per household required for residential uses divided by the average 2.25 persons per household resulting in one hundred (100) square feet per employee.

The city council and park and recreation board find that the requirements of this ordinance are in accordance with the parks and open space goals and policies of the comprehensive plan and park system plan, and are proportionate, fair, and reasonable with respect to the park land and facilities need generated by new development occurring within the city. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 1, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-2. - Authority.

Pursuant to Laws of Minnesota 2006, Chapter 269, Laws of Minnesota 2008, Chapter 331, Laws of Minnesota 2008, Chapter 366, Laws of Minnesota 2013, Chapter 85, and other powers granted by law, the city and park and recreation board are jointly authorized to require that a reasonable portion of any new residential, commercial, and industrial development be dedicated to the public for public use as parks, playgrounds, recreational facilities, wetlands, trails, or open space areas, and that the city and park and recreation board may alternatively accept an equivalent amount in cash. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 2, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-3. - Definitions.

The following terms whenever used in this article shall have the following respective meanings:

*Affordable housing units* means residential dwelling units financed in whole or in part by a local, state, or federal government entity for the purpose of creating housing affordable to and occupied by households earning sixty (60) percent or less of the Metropolitan Median Income (MMI).

*City* means the City of Minneapolis.

*City staff* means the appropriate department head or person designated by that department head to carry out a specific duty or function designated by this ordinance.

*Community park* means a public park that is a minimum of six (6) acres in size serving the community that may include more specialized or unique features that are not typically provided in a neighborhood park.

*Comprehensive plan* means the Comprehensive Plan of the City of Minneapolis.

*Developer* means any person, firm, corporation, sole proprietorship or partnership who seeks to improve property in a manner that would result in a net increase in the number of residential dwelling units on the property or create or expand a commercial or industrial use on the property, and includes any property owner or subdivider of the land. This definition does not include governmental units.

*Development employees* refers to the approximate number of new or additional employees that will result from the proposed commercial or industrial development or expansion and is equal to the product of (1) the number of square feet of floor area of the new structural improvements in the proposed commercial or industrial development or expansion divided by one thousand (1,000) (or for hotels, the number of hotel rooms) and (2) the average number of employees per one thousand (1,000) square feet of floor area of the proposed type of development (or for hotels, the average number of employees per hotel room) based on data maintained by the department of community planning and economic development. Any conversion of existing commercial or industrial space from one (1) type of use to another that does not result in any additional square footage of usable space shall not result in any new development employees.

*Development site* refers to a plot of land that is intended or suitable for a proposed servicing of unimproved land or the improvement of previously developed land and for which there is the proposed construction of new buildings or renovation or significant change of existing buildings to accommodate a new land use or increased density of a land use and for which planning approvals are required. Development site does not include an expansion to an existing commercial or industrial building that is less than five thousand (5,000) square feet or the construction of a new commercial or industrial building that is less than five thousand (5,000) square feet.

*Downtown area* means the geographic area of the city bounded by Interstate 35W, Interstate 94, Plymouth Avenue, and the Mississippi River.

*Dwelling unit* means one (1) or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with a single complete kitchen facility, sleeping area and bathroom provided within the unit for the exclusive use of a single household.

*Neighborhood* means one (1) of the eighty-one (81) areas within the City of Minneapolis officially designated as neighborhoods by the Minneapolis Planning Department.

*Neighborhood park* means a public park that is six (6) acres or less in size that is designed to serve a single neighborhood.

*Open space* means land that is owned in fee or used through an easement with acreage that does not primarily consist of structures or facilities and can include natural areas that have not been subject to development or contain unique ecological or wildlife habitat features.

*Park* means public parks operated by the City of Minneapolis or park board, including all park buildings, trails, parkways, and related facilities.

*Park board* means the Park and Recreation Board of the City of Minneapolis.

*Park system plan* means the system-wide comprehensive plan adopted by the Minneapolis Park and Recreation Board for the acquisition, development, or redevelopment of parks, playgrounds, recreational facilities, wetlands, trails, or open space areas.

*Playground* means an area especially designed for children to play which may or may not include play structures, playground equipment such as swings and see-saws, and may also have facilities for playing informal games of youth and adult sports such as a baseball diamond, hockey rink, tennis court, or basketball court.

*Recreational facility* means recreational improvements that are not typically provided in either a neighborhood park or a community park, such as a community garden, that are designed to facilitate recreational activities. Recreational facilities shall also include recreational improvements, such as community centers or sports fields, that are not located in either a neighborhood park or a community park.

*Trail* means a linear corridor with other site amenities such as landscaping, benches, and lighting, which provides a separated right-of-way with cross flows by motorists minimized and which is designed for recreational purposes such as walking, running, and bicycling.

*Wetland* means a lowland area, such as a marsh, that is saturated with moisture, as defined in Section 404, Federal Water Pollution Control Act Amendments of 1987, or the Minnesota Wetland Conservation Act of 1991. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 3, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13; Pk. Bd. Ord. No. 2016-103, § 1, 9-21-16)

#### PB15-4. - Land dedication requirements.

(a) *Generally.* Any developer of land within the city that will result in a net increase in the number of development employees and/or a net increase in the number of residential dwelling units shall convey or dedicate to the public a reasonable portion of the land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space. This requirement shall apply to platting of land, re-platting of land, registered land survey, or development that will require a building permit, but shall not apply to tax parcel combinations or splits, minor subdivisions, lot line adjustments, conversions of apartments to condominiums, or internal leasehold improvements that do not result in a net increase in the number of residential dwelling units or development employees.



City staff, in consultation with the park board superintendent or their designee and the developer, shall determine the location and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the criteria below. The park board may decline any such proposed dedication by responding in writing within ten (10) business days to a communication from the city to the park board describing the proposed land dedication. In such case, the developer will be required to make a payment-in-lieu of dedication in accordance with subdivision (c) below.

Criteria to be considered:

- (1) The land to be dedicated must be in conformance with the comprehensive plan and applicable adopted small area plans and in an area that is identified for park or conservation purposes in an adopted city or park board plan.
- (2) The land to be dedicated should serve an appropriate public purpose, which might include one (1) or more of the following:
  - a. Connecting existing components of the parks and open space network (including creation of a trail connection).
  - b. Expanding an existing public park, trail, or open space by the addition of adjacent land.
  - c. Preserving significant landforms, native plant communities, sensitive habitat, and/or cultural resources.
  - d. Preserving areas containing vegetation identified as endangered or threatened or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 United States Code Section 1531 et seq. or Minnesota Statutes Section 84.0895, and rules adopted under these respective laws.
  - e. Providing space for recreational and leisure uses appropriate to meet the needs of the new residents and/or employees.
- (3) There must be sufficient resources, public and/or private, available and committed to develop, operate, and maintain the new park land.
- (4) The land to be dedicated should help serve an area that is under-served by parks due to distance to existing parks, population density, inadequate facilities, or inadequate size of existing nearby parks.
- (5) The land to be dedicated shall be adequate for its intended purpose.
- (6) Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted as satisfying the land dedication requirements of this article.
- (7)

Dedicated land shall be accessible to the public served unless the city and park board determine that dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

(b) *Formula for dedication of land.* At any time that net new residential dwelling units and/or net new or increased development employees will result from development, the developer shall dedicate:

- (1) .0066 acres of land for every newly created residential dwelling unit within the downtown area or .01 acres of land for every newly created residential dwelling unit outside of the downtown area, up to a maximum of ten (10) percent of the area being platted or developed, plus
- (2) One hundred (100) square feet of land for each development employee, up to a maximum of ten (10) percent of the area being platted or developed.

Land so dedicated shall be within the plat, registered land survey, or development site and/or, subject to approval by the city after consultation with park board staff and the developer, in close proximity to the plat, registered land survey, or development site. The city may require the land dedication option under this subdivision (b) as a condition of plat, registered land survey or building permit approval, and in so doing may require that the land be dedicated prior to or at the same time as recording the final plat or registered land survey.

(c) *Dedication option; fee payment.* If a plat or registered land survey is not required under section 598.40, if the dedication of land is not practical, or if city staff, after consultation with park board superintendent or their designee, determines that the land to be dedicated does not meet the requirements of subdivision (a), then a developer of property subject to subdivision (b) of this section shall contribute a cash payment in lieu of all or a portion of the land otherwise required under subdivision (b) of this section. The fee for mixed-use developments that include both residential and non-residential development shall be the sum of the fees for the residential and non-residential development components. The amount of cash payment for residential development shall be one thousand five hundred dollars (\$1,500.00) per non-exempt unit, with said amount to be adjusted annually as described below. The amount of the cash payment for non-residential development shall be based upon the city assessor's most recent certified land estimated market value per square foot of the total acreage of the plat or development site at the time of city approval, multiplied by the number of square feet that would have been dedicated under subdivision (b). The amount of cash payment in lieu of dedication for non-residential development shall not exceed two hundred dollars (\$200.00) per development employee, with said maximum to be adjusted annually as described below. Both the per unit and per development employee limits above shall be adjusted each April 1 by the change in the Consumer Price Index for all Urban Consumers (CPI-U, all Items) for the Minneapolis-St. Paul area issued by the Bureau of Labor Statistics for the preceding twelve (12) months ending December 31 of the

previous year, but shall not be reduced. In determining whether land dedication or cash in lieu thereof be required, city staff, in consultation with park board staff, may consider without limitation the suitability and adaptability of land within the site for the purposes listed in subdivision (a) of this section and criteria for land dedication in subdivision (a) of this section. The cash payment in lieu shall be contributed prior to obtaining the city clerk's signature on the final plat or at the time of payment of the fees for the building permit that authorizes the construction of the main structure of the project.

In the event there is a significant change in the size and/or type of a development project that is subject to this parkland dedication ordinance, there may be a commensurate increase in the parkland dedication fee or a refund of the previously paid fee. Said increased fee will be payable at the time the building permit review fee for the revised project is collected. Any refunds will be paid from the parkland dedication special fund by the park board.

(d) *Exemptions.* The following are exempt from the parkland dedication requirements:

- (1) All affordable housing units as defined in section 598.360. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 4, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

PB15-5. - Private land maintained for public use.

City staff, after consultation with park board superintendent or their designee, may at its discretion, waive all or a portion of the land or cash dedication required in section 598.370 and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas within the proposed development, subject to the following conditions:

- (1) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas must at least equal that required under this ordinance.
- (2) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.
- (3) The city must find that such land and improvements will serve the purposes listed in section 598.370(a).
- (4) The city, park board, and developer of the land must have executed a parkland development agreement ensuring that specified land shall be developed and maintained by the developer to park board standards, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in section 598.370(a). The developer must include a covenant running with the specified land indicating that the land to be developed and maintained to park board standards for the purposes listed in section 598.370(a) will revert to the city and/or park board in the event of a failure to comply with this requirement. When a recordable covenant concerning the

ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval, after consultation with park board staff. Such covenant shall be recorded prior to or at the same time as the final plat or prior to obtaining building permits, as applicable.

- (5) Yards, court areas, parking areas, stormwater management areas, setbacks, and other open areas required by zoning and building ordinances and regulations shall not be included in the computation of the land area required in determining the park dedication waiver.
- (6) Before a waiver is given, the city, in consultation with park board superintendent or their designee, shall make a finding that such a waiver is acceptable.
- (7) That where such waiver is granted, the amount of the waiver in the downtown area may be up to one hundred (100) percent of the park dedication requirements for the development.
- (8) That where such waiver is granted, the amount of the waiver elsewhere in the city shall not exceed seventy-five (75) percent of the park dedication requirements for the development.
- (9) If the developer provides park and recreational improvements, site amenities, or other landscape elements to the public use space, the value of the improvements shall be credited against the park dedication fees and conform to park board standards. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 5, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-6. - Land conveyance standards.

Prior to dedication and conveyance of the required property to the city (or the park board on behalf of the city), the developer shall provide the city with an acceptable abstract of title or registered property abstract for all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those encumbrances which the city council has approved or required in connection with the proposed plat. The foregoing abstracts shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. For any dedication of land required under section 598.370(b) that is not formally dedicated to the city with the final plat, the landowner shall record all deeds for conveyance of the property to the city prior to or at the same time as recording the final plat or prior to obtaining building permits for the development, as applicable. (2009-Or-030, § 1, 4-10-09; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-7. - Parkland dedication special fund created.

There is hereby established a parkland dedication special fund, which will be controlled and managed by the park board in compliance with state law and this ordinance. All funds collected pursuant to the parkland dedication process shall be deposited in the parkland dedication special fund, accounted for separately, and used solely for the acquisition and development or improvement of lands dedicated for public use for parks, playgrounds, recreational facilities, wetlands, trails, or open space areas in the neighborhood of the

subdivision or development for which the funds were collected. In the event that the funds collected can be reasonably used within the neighborhood of the subdivision or development, the funds may be used in an adjacent neighborhood within one-half (½) mile of the development and/or for a trail connection at any distance from the development as long as a segment of that trail is within one-half (½) mile of the development.

Such funds shall not be used for ongoing operations or maintenance.

All fund expenditures shall be approved on an annual basis as part of the city's and park board's annual capital budgeting process. Expenditures from the parkland dedication special fund shall be in conformance with the city's and park board's adopted comprehensive plan, development or project plans for sub-areas of the city, and the park system plans, and shall be consistent with other applicable criteria in subdivision (a) of this section. These funds shall supplement, but not supplant, other park board capital funding that is subject to normal city budget and capital budgeting processes. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 6, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-8. - Administrative fee.

A nonrefundable administrative fee of five (5) percent of the park dedication fees, not to exceed one thousand dollars (\$1,000.00) per project, collected through building permits shall be paid by the permit applicant to the city upon building permit issuance. (2009-Or-030, § 1, 4-10-09; 2010-Or-081, § 7, 9-24-10; Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13)

#### PB15-9. - Effective date.

This ordinance shall take effect on January 1, 2014. It shall not apply to development that has received approval of all required land use applications by the city council, city planning commission, and/or board of adjustment prior to the effective date or development for which complete land use and/or building permit applications have been received in full by the department of community planning and economic development prior to the effective date. The amendment to the definition of developer in section PB15-3 is effective retroactively to January 1, 2014, and any fees paid by a state agency or political subdivision thereof will be refunded. (Pk. Bd. Ord. No. 2013-103, § 1, 12-18-13; Pk. Bd. Ord. No. 2016-103, § 2, 9-21-16)

#### PB15-10. - Severability.

If any section, subsection, sentence, clause, or phrase of these parkland dedication regulations are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the regulations. The park board hereby declares that it would have adopted the regulations in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid. ( Pk. Bd. Ord. No. 2016-103, § 3, 9-21-16)

## **SECTION 400.040. PARK DEDICATION.**

Park dedication is required for any subdivision of property to facilitate adequate provision of and access to park and recreational facilities within the city. The city, at its discretion, will determine whether dedication is required in the form of a cash contribution or as land. This decision will be based on existing and proposed development and on the approved park system plan in the comprehensive plan.

### **1. Cash Contribution.**

a) Cash contributions must be made according to the following fee schedule:

single dwellings	\$5,000.00 per buildable lot
two-family and multiple dwellings	\$5,000.00 per unit
office/industrial	\$7,000.00 per acre
commercial	\$8,000.00 per acre

b) For mixed use development, the required contribution will be based on the specific fee outlined for each use.

c) Cash contributions for single-family residential developments must be paid prior to the city's release of the final plat for recording. Cash contributions for all other types of residential, commercial, office or industrial developments must be paid before the city issues the first building permit for the project.

d) Cash contributions must be placed in a separate city fund and used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands or open space based on the approved park, open space, and trail system plan in the comprehensive plan.

### **2. Dedication of Land.**

a) Land dedication must not be less than 10 percent of the total land in the proposed subdivision.

b) The city may determine the location and configuration of any land dedicated, taking into consideration the suitability of the land for its intended purpose and future needs of the community for park, playground, trail, or open space property.

c) At the city's option, the following properties will not be accepted for purposes of the owner's compliance with subdivisions 1 or 2 of this section:

- 1) land dedicated or obtained as easements for stormwater retention, drainage, roadway and other utility purposes;
- 2) land that is unusable or of limited use; and
- 3) land that is protected wetlands/floodplain area.

d) Prior to the dedication of the required property, the subdivider must provide the city with an owner's policy of title insurance naming the city as the insured and insuring the city's interest in the property. In any dedication of required land, the subdivider must transfer good and marketable title to the city, free and clear of any mortgages, liens, encumbrances or assessments, except easements or minor imperfections of title acceptable to the city. If the land is not formally dedicated to the city in the final plat, the subdivider must record all deeds for conveyance of the property to the city at the same time as the final plat or other appropriate division documents.

### **3. Park Dedication Credit.**

The city may, at its discretion, credit park dedication. Consideration may be given to previous park dedication for a parcel or to subdivision that would result in development or redevelopment that achieves a recognized public purpose.

## **SECTION 400.050. WAIVER OF SUBDIVISION APPROVAL.**

Item 7.

In any case in which compliance with the subdivision ordinance will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the city council may waive compliance by adopting a resolution to that effect and the conveyance may then be filed or recorded.

## **SECTION 400.065. VIOLATIONS; PENALTIES.**

### **1. Penalty for prohibited conveyances.**

Any person who conveys a lot or parcel without the approval required by this ordinance must forfeit and pay to the city a penalty of not less than \$100 for each lot or parcel conveyed.

### **2. Building permits.**

No certificate of occupancy, building permit or other city approval will be issued for any land in a subdivision that is in violation of this ordinance, until the violation has been corrected and appropriate fines and penalties have been paid.

### **3. Misdemeanor.**

A person who violates this ordinance is guilty of a misdemeanor.

### **4. Other actions.**

The city may commence proceedings at law or in equity to prevent any violation of this section, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises. Nothing in this section prevents the city from taking other actions permitted by law, and the penalties and remedies provided here and under law are cumulative.

(Section 400 repealed and replaced by Ord. No. 2014-24, adopted September 15, 2014)

### **5. Appeals.**

A person aggrieved by a final city decision under this chapter 4 may seek judicial review by filing an action with the Hennepin County District Court within 60 days after the date that the city provides written notice of the final decision to the applicant.

(Amended by Ord. No. 2020-04, adopted on April 20, 2020)

## 500.23. - Required improvements.

**Subdivision 1. Generally.** Any required public improvements including water, sewer, stormwater drainage and storage areas, streets, alleys, sidewalks and trails, lighting, curbing, gutters, landscaping, open space, or similar utilities and improvements that the City Council deems reasonably necessary to support the proposed development, must be provided by the subdivider as a condition of the acceptance and approval of the subdivision. The design of any public infrastructure improvements must be approved by the City Engineer.

**Subd. 2. As-built drawings.** Where improvements are not installed by the City, and prior to the City's acceptance thereof, reproducible "as built" drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvement.

**Subd. 3. Park dedication.** In appropriate plats or subdivisions to be developed for residential uses, the Council may require that a reasonable portion of such land of sufficient size and character be set aside and dedicated to the public for public use as parks and playgrounds. The City has the option to require cash contribution in lieu of accepting dedication of land or the City may require a combination of land dedication and cash payment. Any cash contribution received by the City will be placed in a special fund and used only for the acquisition of land for parks and playgrounds or other lawful purposes.

**Subd. 4. Survey monuments.** The subdivider must install official permanent monuments as required by Minnesota Statutes, section 505.021. All monument markers shall be correctly in place upon final grading and installation of utilities.

## 500.25. - Waiver of subdivision approval.

**Subdivision 1.** In any case in which compliance with this Section will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the City Council may waive compliance by adopting a resolution to that effect and the subdivision may then be filed or recorded.

## 500.29. - Appeals.

**Subdivision 1. Appeals of decisions of the director.** Appeals of decisions of the Director must be reviewed and acted upon by the Board of Adjustments and Appeals. The City Council shall serve as the Board of Adjustments and Appeals. An appeal from a decision of the Director must be in writing and state the specific grounds upon which the appeal is made. The appeal must be submitted to the Community Development Department within ten (10) days of the date of the Director's written decision.

**Subd. 2. Hearing.** Upon submission of a complete appeal application as determined by the Director, the Director will schedule a hearing with the Board of Adjustment and Appeals.



**Subd. 3. Procedures.** The Director shall prepare reports and other necessary information for the Board of Adjustments and Appeals. The Board shall make a decision on the appeal by adopting written findings. A copy of the Board's decision shall be delivered by mail to the person appealing.

**Subd. 4. Final decisions.** A person aggrieved by a final decision of the City Council made under this Section 500 may seek judicial review by filing an action with the Hennepin County District Court within thirty (30) days after the date that the City provides written notice of the final decision to the subdivider.

(Repealed and replaced, Bill No. 2021-8)

relatively narrow strip of land, which fails to conform to the minimum required lot width, as defined in Section 1001.10 of this Code, and which passes beside a neighboring parcel.

- b. The “flag” is the buildable part of a flag lot, which is connected to the street by the flag pole, and which is located behind the neighboring parcel.

4. Through Lots:

- a. Through lots, as defined in Title 10, Zoning, shall be prohibited, including the creation of such lots out of existing adjacent lots by the location of streets on the platted property.

- b. Notwithstanding this prohibition, the creation of through lots within the land being platted may be considered where one or both of the following circumstances are present:

- i. Topographic or other conditions render subdividing otherwise unreasonable.

- ii. The proposed new street would be substantially in alignment with the existing street network.

- c. Because through lots have access to streets at the front and back, vehicular access to such lots shall be gained from the roadway of lower functional classification or as otherwise approved by the City Engineer. (Ord. 1591, 10-12-2020)

- 5. Where new principal structures are constructed on lots contiguous to roadways with functional classification of Minor Arterial or greater, driveways servicing such lots shall be designed and constructed to provide a vehicle turnaround facility within the lot.
- 6. Where new single-family residential lots are created on a new street, the driveway cut for the new lot must be placed within the new street.

## **1103.06: PARK DEDICATION**

- A. Authority: Minnesota Statutes 462.358, subdivisions 2b and 2c permits the City to require dedication of park land, or cash in lieu of land, as part of the subdivision process in order to fulfill its plans for recreational facilities and open spaces. The City Council, at its discretion, will determine whether park dedication is required in the form of land, cash contribution, or a combination of cash and land. To properly use this authority, the City will base its determination on existing development, the need created by the proposed development, and the plans and policies of the City embodied by the Parks and Recreation System Master Plan, Pathways Master Plan, and Comprehensive Plan.
- B. Condition to Approval: Park dedication will be required as a condition to the approval of any subdivision, plat, replat or lot split. The Parks and Recreation

Commission shall recommend, in accordance with Statute and after consulting the approved plans and policies noted herein, either a portion of land to be dedicated to the public, or in lieu thereof, a cash deposit given to the City to be used for park purposes, or a combination of land and cash deposit. (Ord 1601, 6-21-2021)

- C. Park Dedication Amount: The portion of land to be dedicated in all areas shall be 10%. Park dedication fees shall be reviewed and determined annually by City Council resolution and established in the fee schedule in Chapter 314 of this Code, and the fee shall be paid as part of the Development Agreement required in Section 1102.05 of this Title. (Ord 1601, 6-21-2021)
- D. Utility Dedications Not Qualified: Land dedicated for required pathways, street right-of-way or utilities, including drainage, does not qualify as park dedication.(Ord. 1530, 7/10/2017) (Ord 1601, 6-21-2021)

- (a) *Parkland dedication requirements.* Pursuant to Minn. Stats. § 462.358, Subd. 2, as amended and as otherwise provided below, for platting of land for residential, commercial, or industrial development, a reasonable portion of the buildable land may be required to be dedicated or conveyed to the city on a one-time basis, prior to or at the same time as recording the final plat, for public use for parks, playgrounds, recreation facilities, trails, wetlands, or open space needed as a result of the plat, to a maximum of nine (9) percent of the total acreage of new lots that are being created for new residential or mixed-use development and to a maximum of four (4) percent of the total acreage of new lots that are being created for new commercial or industrial development. Land so dedicated shall be within the plat and/or, subject to agreement by the city council and the subdividers, in close proximity to the plat.

The city council shall determine the amount, location, and configuration of any land dedicated, taking into consideration the suitability and adaptability of the land for its intended purpose, future needs of the proposed development, and the following criteria:

- (1) The parkland standards in section 63.702 for future development of the plat, and whether the development will be under-served by parks due to distance to existing parks, population density, or inadequate size of existing nearby parks;
- (2) Conformance with the city's adopted comprehensive plan and development or project plans for sub-areas of the city, and areas identified for park or open space in an adopted city, regional, state, or national plan;
- (3) Areas that connect existing components of the open space network;
- (4) Areas adjacent to existing public parks, trails, or open space;
- (5) Areas representing significant landforms, native plant communities, sensitive habitat, or historical events;
- (6) Areas containing vegetation identified as endangered or threatened, or that provide habitat for animals identified as endangered, threatened, or of special concern under 15 U.S.C. § 1531 et seq. or Minn. Stats. § 84.0895, and rules adopted under these respective laws;
- (7) Availability and commitment of resources, public and/or private, to develop, operate, and maintain the new park land;
- (8) Land to be dedicated shall be large enough for its intended purpose;
- (9) Land dedicated solely for roadway, stormwater retention, or utility purposes, or otherwise unsuitable for the purposes listed above, shall not be accepted;
- (10) Dedicated land shall be accessible to the public served unless the city council determines that the dedicated land is an environmentally or ecologically sensitive area for which public access would be detrimental.

- (b) *One-time basis of parkland dedication requirements.* Once parkland has been dedicated or conveyed to the city under this section to meet the needs for parkland created by the plat, there shall be no further parkland dedication requirement under section 63.701 at the time of building permits. If the property is later re-platted, or if a requirement for parkland dedication or a fee in lieu has previously been imposed at the time of building permits, the amount of parkland to be dedicated shall be based on the area of new lots and additional development for which parkland dedication or a fee in lieu has not previously been required. Residential/mixed-use projects having previously dedicated land or paid a fee in lieu of land at the time of platting prior to the effective date of this section shall be required to pay the parkland dedication fee at the time of building permits under section 63.701 less the prorated value of the land dedicated or the fee in lieu of land paid at the time of platting.
- (c) *Parkland dedication option; private land maintained for public use.* The city council may, at its discretion, waive all or a portion of the land dedication required under subdivision (a) of this section and enter into an agreement for the private development and/or maintenance of land for public use for parks, playgrounds, recreation facilities, wetlands, trails, or open space within the proposed plat, subject to the following conditions:
- (1) The land area or value of the land and improvements privately developed and maintained for public use for parks, playgrounds, trails, open space, or conservation purposes must at least equal that required under this ordinance.
  - (2) Land, facilities, and improvements accepted under this provision shall be accessible to the public in a manner similar to public land.
  - (3) The city council must find, after recommendation of the director of parks and recreation and the parks commission, that such land and improvements will serve the purposes listed in subdivision (a) of this section.
  - (4) The city and the owners, subdividers, or developers of the land must have executed a parkland development agreement insuring that specified land shall be developed and maintained by the owners, subdividers, or developers, and any and all successors in interest thereof, of any type whatsoever, which includes, but is not limited to heirs and assigns, for the purposes listed in subdivision (a) of this section. The owners, subdividers, or developers must include a covenant running with the specified land indicating that the land to be developed and maintained for the purposes listed in subdivision (a) will revert to the city in the event of a failure to comply with this requirement. When a recordable covenant concerning the ownership, maintenance or use of private areas and facilities for parkland development is required, the covenant shall be submitted to the city for approval. Such covenant shall be recorded prior to or at the same time as the final plat when related to requirements under subdivision (a) of this section.

- (d) *Parkland dedication; conveyance standards.* Prior to dedication and conveyance of the required property to the city, the owners, subdividers or developers shall provide the city with an acceptable abstract of title or registered property abstract for all land dedicated for park purposes, evidencing good and marketable title without liens or encumbrances of any kind except those encumbrances which the city council has approved or required in connection with the proposed plat. The foregoing abstracts shall otherwise evidence good and marketable title free and clear of any mortgages, liens, encumbrances, assessments and taxes. For any dedication of land required under subdivision (a) of this section that is not formally dedicated to the city with the final plat, the landowner shall record all deeds for conveyance of the property to the city prior to or at the same time as recording the final plat.

(C.F. No. 06-1047, § 1, 3-28-07; Ord 15-27, § 3, 8-26-15)

**CITY COUNCIL WORK SESSION MEETING**

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	APRIL 1, 2024

<b>ITEM:</b>	<b>8.106 - Chickens</b>								
<b>DEPARTMENT:</b> Community Development		<b>BY/DATE:</b> Andrew Boucher, City Planner April 1, 2024							
<p><b>CORE CITY STRATEGIES:</b> <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i></p> <table> <tr> <td><input checked="" type="checkbox"/> Healthy and Safe Community</td> <td><input type="checkbox"/> Thriving and Vibrant Destination Community</td> </tr> <tr> <td><input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly</td> <td><input type="checkbox"/> Strong Infrastructure and Public Services</td> </tr> <tr> <td><input type="checkbox"/> Trusted and Engaged Leadership</td> <td><input checked="" type="checkbox"/> Sustainable</td> </tr> </table>				<input checked="" type="checkbox"/> Healthy and Safe Community	<input type="checkbox"/> Thriving and Vibrant Destination Community	<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly	<input type="checkbox"/> Strong Infrastructure and Public Services	<input type="checkbox"/> Trusted and Engaged Leadership	<input checked="" type="checkbox"/> Sustainable
<input checked="" type="checkbox"/> Healthy and Safe Community	<input type="checkbox"/> Thriving and Vibrant Destination Community								
<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly	<input type="checkbox"/> Strong Infrastructure and Public Services								
<input type="checkbox"/> Trusted and Engaged Leadership	<input checked="" type="checkbox"/> Sustainable								

**BACKGROUND:**

The City of Columbia Heights has received numerous calls or inquiries regarding City restrictions on the raising of chickens going back to 2012. The Zoning Code and Municipal Code do not specifically address this issue and the City Attorney's interpretation of the existing code is that chickens are livestock and can be placed in the same category as cows, horses, sheep, pigs, etc. These animals are allowed only in agriculturally zoned properties, and since Columbia Heights does not have any agriculturally zoned property, then they (including chickens) would not be allowed unless the existing ordinances were modified.

The City's 2040 Comprehensive Plan identifies healthy food access and community resilience as an Emerging Topic. One of the key land use goals identified in the 2040 Comprehensive Plan includes increasing access to affordable healthy food options through establishing and maintaining community food assets to bring food closer to under-resourced consumers. By including food, equity and health-related policy and systems changes in city codes, communities in Minnesota can establish:

- Affordable, safe, and reliable transportation to food sources.
- Support for local, small-sized food enterprises.
- Zoning that supports healthy food infrastructure.
- Access to and preservation of land for food production.
- Development of community food assets (community gardens, pollinator-habitats, local chickens).

**SUMMARY OF CURRENT STATUS:**

At the time, staff felt it was necessary to amend the existing ordinances to clarify whether chickens should or shouldn't be allowed in residential zones, but there was no follow-up action taken, so the ordinance currently does not allow for the raising of chickens. A Minnesota court has found that, unless specifically included in the definition, chickens and roosters do not fall under the regulation of ordinances that reference livestock. If the city would like to include chickens in this category, it may do so by defining the term to include chickens, poultry, fowl, or other similar descriptions.

Urban chicken ordinances were examined by peer-reviewing other cities such as Fridley, New Hope, Shakopee, St. Anthony's Village and Minneapolis for key components. Additionally, staff have consulted with the League of Minnesota Cities and the University of Minnesota Extension program for their guidance on what a model ordinance should include.

Small-scale keeping of chickens is different than a business that raises hens for eggs and meat as those businesses are regulated differently than residents who want to keep a few chickens in their backyards. There are no state laws that address urban chickens or keeping of chickens in cities, so it is up to the city council to decide if it wants to regulate the keeping of chickens. The city may choose to allow, allow if a permit is obtained from the city, or prohibit urban chickens. The city can do this in a number of ways, including regulation under the general animal or farm animal ordinance or by passing an ordinance specific to keeping chickens. If the city chooses to regulate the keeping of urban chickens, some common requirements include;

- Licensing and education requirements.
- Allowing only hens (no roosters) and limiting the number of hens allowed.
- Maintaining coops or runs in a sanitary and humane condition.
- Keeping chickens contained or under control at all times.
- Locating coops a certain distance from property lines and other structures like houses.
- Inclusion of an inspection and property maintenance code compliance.

The University of Minnesota's Extension program also identifies additional information that would be beneficial in the consideration of a proposed ordinance to ensure that chickens are properly cared for in a healthy, clean environment. An enclosed, quality coop must provide protection from the weather and predators and should include;

- A well-insulated area with a light bulb or heat lamp for the winter months as well as ventilation for fresh air.
- Each bird should have a minimum of 3-5 sq. ft. including outdoor space.
- Ensure that the coop is free of small holes, woodpiles, or equipment as they attract predators.
- Chickens need to be fed and water changed daily as well as being let out of the coop each morning and put into the coop at dusk with eggs picked up twice a day.
- A sanitation plan shall be prepared showing how the food will be secured and the coop and pen will be cleaned out weekly to maintain sanitation and odor control.

## **STAFF RECOMMENDATION:**

Staff recommends that the City Council direct staff on whether to pursue an urban chicken ordinance and consider providing feedback on the following items: licensure, permitting, and education requirements; location and size of coop/run; development conditions, and inspection/compliance requirements.

## **ATTACHMENT(S):**

Animal Regulation in Cities – League of Minnesota Cities  
LMC and University of Minnesota Extension Guidance  
Fridley Chicken Ordinance  
New Hope Chicken Ordinance  
Shakopee Chicken Ordinance  
St. Anthony's Village Chicken Ordinance  
Minneapolis Chicken Ordinance



**RELEVANT LINKS:**

[Minn. Stat. 609.833, subd.4.](#)  
[“Service Animals,”](#)  
 Minnesota Council on  
 Disability.

Section III-A, *Minnesota Pet  
 and Companion Animal  
 Welfare Act*.

[Minn. Stat. § 346.16.](#)

[Stewart v. Frisch](#), 381  
 N.W.2d 1 (Minn. Ct. App.  
 1986).

[State v. Nelson](#), 499 N.W.2d  
 512 (Minn. Ct. App. 1993).

[“Backyard Chicken Basics,”](#)  
 University of Minnesota  
 Extension, Small Farms.

Second and subsequent violations are a misdemeanor. A sign may be posted in places of public accommodation advising the public of this law.

## C. Farm animals

Farm animals generally include animals that live on farms, such as cattle, sheep, goats, pigs, and horses. A city can define “farm animals” in its ordinance to include whatever animals it wishes.

In addition to the Animal Welfare Act requirements, cities take different approaches in how they regulate farm animals in their communities. Some cities will only allow farm animals in certain zoning districts, such as land zoned for agricultural uses. Other cities allow some farm animals anywhere in the city as long as the requirements in the ordinances are met, such as having a lot over a specified size. It is important to be clear what animals the ordinance covers and to provide clear definitions.

### 1. Farm animals at large

If any person herds cattle, horses, asses, mules, sheep, swine, or goats on land over the protest of the land owner, the animals are considered to be running at large. Court opinions have determined that “at large” means when animals are not restrained or confined. Any person who knowingly allows animals to run at large is liable for damage caused.

### 2. Chickens

Like other animals, cities take different approaches for regulating chickens. Some cities include chickens in the same regulations that apply to other farm animals or livestock. Other cities have ordinances that allow chickens in the city under certain circumstances. However the city decides to regulate chickens, it is important to be clear about the regulations.

A Minnesota court has found that, unless specifically included in the definition, chickens and roosters do not fall under the regulation of ordinances that reference livestock. If the city would like to include chickens in this category, it may do so by defining the term to include chickens, poultry, fowl, or other similar descriptions. The bottom line here is that if the city wants to regulate chickens, it should make sure that chickens are covered by the ordinance.

“Urban chickens,” also called “city chickens,” are becoming a more common issue in cities across the state and country. The urban chicken “movement” is often linked to the increased desire for people to be closer to their food sources. Urban chickens allow people to raise chickens at their homes to have access to fresh eggs on a regular basis.

**RELEVANT LINKS:**

[“Backyard Poultry,”](#) Centers for Disease Control and Prevention (Nov. 16, 2022).

Contact the [LMC Research Department](#) for sample ordinances.

[“Apiary Program Information,”](#) Minnesota Department of Agriculture. Minn. Stat. § 17.445.

[“Beekeeping Help,”](#) University of Minnesota Bee Lab.

This small-scale keeping of chickens is different than a business that raises hens for eggs and meat. Those businesses are regulated differently than residents who want to keep a few chickens in their backyards.

There are no state laws that address urban chickens or keeping of chickens in cities, so it is up to the city council to decide if it wants to regulate the keeping of chickens. The city may choose to allow, allow if a permit is obtained from the city, or prohibit urban chickens. The city can do this in a number of ways, including regulation under the general animal or farm-animal ordinance or by passing an ordinance specific to keeping chickens.

If the city chooses to regulate the keeping of urban chickens, some common requirements include:

- Allowing only hens (no roosters).
- Limiting the number of hens allowed.
- Maintaining coops or runs in a sanitary and humane condition.
- Keeping chickens contained or under control at all times.
- Locating coops a certain distance from property lines and other structures like houses.

### **3. Farm animals as pets**

It is not uncommon for a resident to want to keep a farm animal, such as a miniature horse or potbelly pig, as a pet. Some city ordinances would not allow for these animals as pets because the ordinance includes them as farm animals and prohibits them in residentially zoned areas. Other cities may allow for these types of animals by specific ordinance provisions, sometimes requiring a permit from the city. Given that these animals have been gaining in popularity, it is a good idea for the city to consider the issue and have an ordinance in place.

## **D. Insects and bugs**

Insects and bugs are a part of life in Minnesota. While cities cannot regulate where insects and bugs choose to live, there are some things a city can do, such as regulating beekeeping or abating mosquitoes.

### **1. Beekeeping**

Since 2006, beekeeping is no longer regulated by state law, except for apiary inspection services related to the transportation of bees to other states. Cities may choose to regulate beekeeping within city limits. Some cities prohibit the practice while others allow it after obtaining a permit or allow it outright.

### LMC - Chickens

Like other animals, cities take different approaches for regulating chickens. Some cities include chickens in the same regulations that apply to other farm animals or livestock. Other cities have ordinances that allow chickens in the city under certain circumstances. However the city decides to regulate chickens, it is important to be clear about the regulations.

A Minnesota court has found that, unless specifically included in the definition, chickens and roosters do not fall under the regulation of ordinances that reference livestock. If the city would like to include chickens in this category, it may do so by defining the term to include chickens, poultry, fowl, or other similar descriptions. The bottom line here is that if the city wants to regulate chickens, it should make sure that chickens are covered by the ordinance.

“Urban chickens,” also called “city chickens,” are becoming a more common issue in cities across the state and country. The urban chicken “movement” is often linked to the increased desire for people to be closer to their food sources. Urban chickens allow people to raise chickens at their homes to have access to fresh eggs on a regular basis. This small-scale keeping of chickens is different than a business that raises hens for eggs and meat. Those businesses are regulated differently than residents who want to keep a few chickens in their backyards. There are no state laws that address urban chickens or keeping of chickens in cities, so it is up to the city council to decide if it wants to regulate the keeping of chickens. The city may choose to allow, allow if a permit is obtained from the city, or prohibit urban chickens. The city can do this in a number of ways, including regulation under the general animal or farm animal ordinance or by passing an ordinance specific to keeping chickens. If the city chooses to regulate the keeping of urban chickens, some common requirements include;

- Allowing only hens (no roosters).
- Limiting the number of hens allowed.
- Maintaining coops or runs in a sanitary and humane condition.
- Keeping chickens contained or under control at all times.
- Locating coops a certain distance from property lines and other structures like houses.

### UMN – Extension: Chickens

#### Housing

An enclosed, quality coop is essential to backyard chicken production. Coops must provide protection from the weather and predators. There should be a well-insulated area with a light bulb or heat lamp for the winter months as well as ventilation for fresh air. Be sure to have a minimum of 3 to 5 square feet per bird, including outdoor space. Ensure that the coop is free of small holes for predators to sneak in. The space should be free of unnecessary objects like woodpiles or equipment, as they attract predators.

Chickens need to be fed and water changed daily. They need to be let out of the coop each morning and put into the coop at dusk each night to protect them from predators. Eggs should be picked up twice a day. The coop and pen should be cleaned out weekly to maintain sanitation and odor control.

#### Sanitation

To maintain a clean, healthy environment, the coop and outdoor area should be cleaned out weekly or as needed to control manure and odor build up. Feeders and waterers should be regularly cleaned and disinfected. Dust baths should be available, as they help control mites. It is important that at least once a year, usually in the spring, a thorough cleaning is done on the coop and yard. Also cleaning before introducing new birds to the area will limit the spread of disease.

A fall cleaning is also helpful with mite control over winter. Rake and clean out the yard. All feeders should be removed and bedding completely cleared out. It is important to remove dust and cobwebs from corners of the coop. The inside of the coop needs to be disinfected — including troughs, perches and nests. To disinfect, use one-tablespoon chlorine bleach to one gallon boiling water.

### Manure management

Chicken manure is made up of feed residue, intestinal bacteria, digestive juices, mineral by-products from metabolic processes, and water. In fact, 85 percent of chicken droppings, by weight, is water. This leads to issues with humidity and odor. So what are the options for managing manure?

- One option is to complete thorough cleanings of the coop more than once a year. This will control the odor and fly populations.
- Another option is to pasture the chickens. Moveable shelters are a valuable tool for pasturing chickens and reducing cleaning time. Simply move the location of the house when manure begins to build up. It offers new space for chickens to graze and peck, and it provides free fertilizer for the lawn!
- A third option is composting. Composting can be done right in the chickens' bedding. To start this process, lay down about 4 inches of bedding. Regularly stir up the bedding to prevent clumping, and add fresh bedding until it is 10 inches deep by winter. Continue this process until the bedding gets 12 to 15 inches deep. At this depth, composting actively begins and after 6 months can kill harmful bacteria. This composting releases heat, which keeps chickens warm in cooler months and attracts natural fly predators. To maintain the compost, it must be stirred regularly to prevent crusting. The same process can be done outside of the coop in a separate bin.

### Regulations

There are several regulations that you may encounter with chicken ownership. Raising chickens in the backyard may require a permit from your city, and each has different requirements and restrictions. It is not legal in some cities to keep poultry. Some cities may also limit the number of animals you can keep.

If you begin selling eggs or meat, you will encounter additional regulations. The Minnesota Department of Agriculture Dairy and Food Inspection Division manages and enforces these.

## 8.106 – Chickens

## Columbia Heights – Chicken ordinance

- 1) *Purpose.* “Urban chickens” or “city chickens,” are becoming more common in cities across the state and country due to the desire for people to be closer to their food sources. Urban chickens allow people to raise chickens at their homes to have access to fresh eggs on a regular basis. This small-scale keeping of chickens is different than a business that raises hens for eggs and meat. Residents who want to keep chickens in their backyards shall do so in a manner and under such conditions as described by this section.
- 2) License (if desired to be an annual renewal)/Permit (one-time and runs with the property) Required
  - a. No person may keep, harbor, maintain or allow the keeping of poultry on any property in the City without an approved license. If the applicant is a tenant, they must also provide proof of approval by the property owner permitting the keeping of poultry on the property.
  - b. Education and training on how to raise poultry is required for the individual prior to the issuance of the initial license by the City. At the time of application for licensing, the individual must submit proof of completion of an approved educational course on the care and keeping of poultry.
  - c. The application for licensing must be upon a form provided by the City. The applicant must pay for a license fee as set forth in the Fees chapter of the Code. All required information must be complete, including the number and breed of poultry, a diagram or photograph of the proposed coop and run, description of sanitation control and a description on how poultry feed will be maintained or stored.
  - d. A site plan of the property showing the location, size, and setback requirements of the proposed poultry coop and run is required.
  - e. The property must be in compliance with all other applicable City regulations in order to receive approval and renewal.
  - f. If the licensee fails to maintain the conditions set forth below subsequent to issuance of the license, the City Manager or their designee license may revoke the license.
  - g. The license term, license fee, license renewal fee, and impound fee are established in the Fees chapter of the Code.
  - h. An applicant or licensee may appeal the denial, revocation, or non-renewal of a license issued under this Section pursuant to the procedures set forth in Section 300.22 of this Chapter.
- 3) Location and Size of Coop and Run
  - a. Residents on properties zoned R-1, Single Family Residential; R-2A and R-2B, Two-Family Residential, and R-3, Limited Multiple-Family Residential and R-4, Multiple-Family Residential districts may be permitted to keep and raise poultry as a hobby with a license and be limited to a maximum combination of six poultry per property. This does not apply to multifamily buildings containing three or more units.
  - b. Coop and run area must be located in the backyard and must be located a minimum of 10 feet from all adjacent property lines and shall be situated closer to the chicken owner’s dwelling than to any of the neighboring dwellings.
  - c. Coop and covered run area is limited to no more than 120 square feet and shall not exceed 6 feet in height.

- d. Coop size must not be less than three square feet per bird, be weatherproof and fully enclosed.
- e. The coop must comply with current zoning and building codes. The coop must be constructed with architecturally appropriate building materials including exterior grade siding and either a metal, composite or shingled roof. In the alternative, coop may be purchased from a commercial source that constructs structures specifically to be used as coops for poultry.
- f. The run must have a fence around the enclosure and must be securely constructed with mesh type material to prevent the poultry from roaming freely and to protect them from other animals.
- g. If the keeping of poultry has been discontinued for more than 12 consecutive months, the licensee must remove the coop and run and restore the site within five business days.

4) Conditions

- a. No roosters will be permitted.
- b. No poultry are to be allowed or kept inside of any residential garage or dwelling unit.
- c. Poultry must be secured inside of a shelter from sunset to sunrise each day to prevent nuisance noise and attraction of predators.
- d. Poultry must be confined to the coop and run area and may not roam free on the property.
- e. Housing facilities and grounds must be maintained in a clean and sanitary condition and kept in good repair. Flies, rodents, and noxious odors must be controlled. Facilities must be kept free of fecal matter and collected fecal matter must be properly stored and disposed of weekly.
- f. If poultry are to be maintained during the winter months, the coop must be winterized to protect the birds in cold weather.
- g. Poultry must be fed within the confines of the coop or run area. Feed must be stored in leak-proof containers with a tight-fitting cover to prevent attracting vermin.
- h. The raising of poultry for breeding purposes is prohibited on residentially used or zoned properties.
- i. There will be no slaughtering or butchering of any poultry on residential properties within the City.

5) Inspection

- a. As a part of the initial license application or annual renewal each resident must allow an inspection of the coop and run area by the City. The City Manager or their designee has the right to inspect any coop and run for the purpose of ensuring compliance with this Section upon providing prior notice to the owner of the property. In the case of a complaint regarding the coop and run, the site may be inspected by the City without prior notice. In the event the licensee moves to a new residential lot within the City, the licensee is required to complete a new license application for the new location.

6) Sale of eggs. Owners must comply with all requirements and performance standards for home enterprises in the city code and all Minnesota Department of Agriculture requirements for the sale of eggs.

**300.05 Poultry**

1. Purpose. The keeping of chickens or ducks on a small scale for the purpose of raising such animals to have access to fresh eggs, meat, or feathers is of growing interest in the community. This section addresses the City's desire to protect the health and safety of such animals and residents.

**2. License Required**

(a) No person may keep, harbor, maintain or allow the keeping of poultry on any property in the City without an approved license. If the applicant is a tenant, they must also provide proof of approval by the property owner permitting the keeping of poultry on the property.

(b) Education and training on how to raise poultry is required for the individual prior to the issuance of the initial license by the City. At the time of application for licensing, the individual must submit proof of completion of an approved educational course on the care and keeping of poultry.

(c) The application for licensing must be upon a form provided by the City. The applicant must pay for a license fee as set forth in the Fees chapter of the Code. All required information must be complete, including the number and breed of poultry, a diagram or photograph of the proposed coop and run, description of sanitation control and a description on how poultry feed will be maintained or stored.

(d) A site plan of the property showing the location, size, and setback requirements of the proposed poultry coop and run is required.

(e) The property must be in compliance with all other applicable City regulations in order to receive approval and renewal.

(f) If the licensee fails to maintain the conditions set forth below subsequent to issuance of the license, the City Manager or their designee license may revoke the license.

(g) The license term, license fee, license renewal fee, and impound fee are established in the Fees chapter of the Code.

(h) An applicant or licensee may appeal the denial, revocation, or non-renewal of a license issued under this Section pursuant to the procedures set forth in Section 300.22 of this Chapter.

**3. Location and Size of Coop and Run**

(a) Residents on properties zoned R-1, Single Family Residential may be permitted to keep and raise poultry as a hobby with a license and be limited to a maximum combination of six poultry per property.

(b) Coop and run area must be located in the backyard and must be located a minimum of 10 feet from all adjacent property lines and 30 feet from any neighboring structure.

(c) Coop and covered run area is limited to no more than 120 square feet.

(d) Coop size must not be less than three square feet per bird, be weatherproof and fully enclosed.

(e) The coop must comply with current zoning and building codes. The coop must be constructed with architecturally appropriate building materials including exterior grade siding and either a metal

composite or shingled roof. In the alternative, coop may be purchased from a commercial source that constructs structures specifically to be used as coops for poultry.

Item 8

(f) The run must have a fence around the enclosure and must be securely constructed with mesh type material.

(g) The run must have protective overhead netting or fencing to prevent the poultry from roaming freely and to protect them from other animals.

(h) If the keeping of poultry has been discontinued for more than 12 consecutive months, the licensee must remove the coop and run and restore the site within five business days.

#### 4. Conditions

(a) No more than six poultry may be kept on site at any one time.

(b) No roosters will be permitted.

(c) No poultry are to be allowed or kept inside of any residential garage or dwelling unit.

(d) Poultry must be secured inside of a shelter from sunset to sunrise each day to prevent nuisance noise and attraction of predators.

(e) Poultry must be confined to the coop and run area and may not roam free on the property.

(f) Housing facilities and grounds must be maintained in a clean and sanitary condition and kept in good repair. Flies, rodents, and noxious odors must be controlled. Facilities must be kept free of fecal matter and collected fecal matter must be properly stored and disposed of weekly.

(g) If poultry are to be maintained during the winter months, the coop must be winterized to protect the birds in cold weather.

(h) Poultry must be fed within the confines of the coop or run area. Feed must be stored in leak-proof containers with a tight-fitting cover to prevent attracting vermin.

(i) The raising of poultry for breeding purposes is prohibited on residentially used or zoned properties.

(j) There will be no slaughtering or butchering of any poultry on residential properties within the City.

#### 5. Inspection

As a part of the initial license application or annual renewal each resident must allow an inspection of the coop and run area by the City. The City Manager or their designee has the right to inspect any coop and run for the purpose of ensuring compliance with this Section upon providing prior notice to the owner of the property. In the case of a complaint regarding the coop and run, the site may be inspected by the City without prior notice. In the event the licensee moves to a new residential lot within the City, the licensee is required to complete a new license application for the new location.

#### HISTORY

Adopted by Ord. [1349](#) on 11/27/2017

Amended by Ord. [1388](#) on 4/26/2021

Amended by Ord. [1406](#) on 4/10/2023





It shall be a public nuisance and unlawful to allow, permit, keep, maintain, sell or harbor animals within the city, in violation of the following regulations:

- (1) *Dogs*. No more than three dogs over six months old, up to a limit of ten dogs if the additional dogs are puppies under six months old, unless a kennel license is obtained.
- (2) *Cats*. No more than three cats over six months old, up to a limit of ten cats if the additional cats are kittens under six months old, unless a kennel license is obtained.
- (3) *Other household pets*. No more than three other domesticated household pets of any kind or combination thereof kept for companionship and pleasure, including, but not limited to, small caged animals in the rodent family, members of the lagomorph family, domesticated ferrets, caged birds in the parrot or finch families, non-venomous reptiles less than six feet in length and non-poisonous amphibians. This limitation shall not apply to non-game fish sold at retail in pet shops for the purpose of being kept in an aquarium.
- (4) *Chickens*. No more than four chickens. No roosters of any kind are permitted within the city by this section.
  - a. Shelter requirements. Chickens shall be properly protected from the weather and predators in a shelter or coop, and have access to the outdoors in an enclosed or fenced area. The shelter and/or enclosure shall meet all of the following requirements:
    1. Applicable building, property maintenance and zoning requirements of the city code;
    2. All electrical work shall be done according to applicable codes and with appropriate permits;
    3. The shelter shall be situated closer to the chicken owner's dwelling than to any of the neighboring dwellings, and in no case closer than ten feet to the lot line;
    4. Shelter and enclosure must be located in the rear yard;
    5. Screening from abutting residential properties in the form of a solid privacy fence of at least four feet in height constructed according to the fence standards of the city code shall be provided for the shelter and enclosure;
    6. A shelter shall not exceed 120 square feet in size and shall not exceed six feet in height;
    7. An enclosure or fenced area for chickens shall not exceed 20 square feet per bird and shall not exceed six feet in height and shall have protected overhead netting to prevent attracting predators;
    8. An enclosure or fenced area may be constructed with wood and/or woven wire materials that allow chickens to contact the ground; and

- b. Prevention of nuisance conditions. Owners shall care for chickens in a humane manner and shall prevent nuisance conditions by ensuring the following conditions are met:
    - 1. The shelter and enclosure are maintained in good repair, and in a clean and sanitary manner free of vermin and objectionable odors;
    - 2. Feces and discarded feed is regularly collected and stored in a leak-proof container with a tight-fitting cover to prevent nuisance odors and the attraction of vermin until it can be disposed of properly;
    - 3. Chicken feed shall be stored in a leak-proof container with a tight-fitting cover to prevent attracting vermin;
    - 4. Chickens shall be secured inside of a shelter from sunset to sunrise each day to prevent nuisance noise and attracting predators;
    - 5. Chickens shall remain in either the shelter or enclosure at all times and shall not run at large; and
    - 6. The shelter shall be winterized to protect the chickens in cold weather.
  - c. Sale of eggs. Owners must comply with all requirements and performance standards for home enterprises in the city code and all Minnesota Department of Agriculture requirements for the sale of eggs.
- (5) *Wild animals.* No live wild animals of any kind.
- (6) *Hoofed animals.* No horses, cows, sheep, goats, pigs or any kind of other hoofed animals with the exception of one pot-bellied pig.
- (7) *[Nuisance animals.]* No combination of animals and/or chickens of any age referred to in subsections (1) through (6) above kept in such numbers or under such conditions which unreasonably annoy, injure, or endanger the health, safety, comfort, repose or welfare of the public or of said animals or chickens.

(Ord. No. 15-23, § 2, 10-26-2015; Ord. No. 21-04, § 1, 9-13-2021)

## Sec. 7-7. - Exempt animals.

:

The provisions of this Code shall not apply to the following circumstances:

- (1) Owners or possessors of wild animals where such animals are exhibited in the city for the education and entertainment of the public by a person authorized by either federal law or Minn. Stat. § 97A.041 provided the following conditions are met:
  - a. The animals are not permanently sheltered, kept or maintained in the city.

## Minneapolis – Chicken Ordinance

**63.90. - Fowl.**

1. No person shall keep, harbor, or maintain care, custody, or control over any fowl such as a chicken, turkey, duck, or pigeon, without obtaining a permit. Any person desiring a permit shall make written application to MACC. Approval of application is subject to reasonable conditions prescribed by MACC. Failure to adhere to permit conditions shall constitute cause for adverse action against the permit and shall be a violation of this section.
2. MACC may grant a permit pursuant to this section only after the applicant has met any educational requirements as established and published by MACC and has provided evidence of notification to all immediately adjacent property owners, in a format supplied by or approved by and to the satisfaction of MACC. If the applicant is a renter, approval from the property owner shall be required. Neighbor notification will be the responsibility of the property owner, though it may be carried out by the applicant.
3. Fowl must be purchased or acquired in accordance with Minn. Statute Sections 70.40 and 74.100 and any other applicable law.
4. The requirements of this section shall not prohibit the adoption of fowl to the public by any releasing agency, private shelter, rescue group, or public sheltering agency provided the adoption contract specifies that the animal cannot be sold, transferred, or otherwise disposed of for a period of six (6) months following the adoption without written consent of the releasing agency, except for euthanization by a licensed veterinarian to prevent pain and suffering or disease transmission.
5. No person having the care, custody, and control of any fowl shall abandon said fowl or allow any fowl to run at large off the property of its owner or custodian.
6. All permits shall expire twelve (12) months from the date of issuance unless sooner revoked. The application fees for such permits shall be as established in the license fee schedule and shall be payable upon application. MACC may inspect the premises annually or as deemed necessary.
7. Permits shall be classified into three (3) tiers, with Tier I consisting of one (1) to six (6) hens, Tier II of seven (7) to fifteen (15) hens, and Tier III of sixteen (16) to thirty (30) hens, with associated fees as established in the license fee schedule.
8. Standards of care, practice, restrictions, and enclosure requirements include the following:
  - a. Residential coops, pens or other structures shall be limited to six (6) fowl of any kind per permit. Permits in excess of the allowable number shall need to be approved by MACC and may require additional conditions.
  - b. Location of coop, run, or pen must be in compliance with all zoning code requirements and enclosed to ensure fowl are confined to permittee's property. The enclosure must be of proper size for the number and type of fowl being housed as prescribed by MACC.
  - c. Residential coops, pens, or other structures shall be an allowed accessory to a dwelling subject to the following:
    - i. The use shall be located not less than twenty (20) feet from any habitable building on an adjacent property.
    - ii. The use shall be visually screened from any adjacent residential use.
    - iii. The use shall be constructed of durable materials and shall be compatible with the principal structure and adjacent residential properties.
    - iv. The use shall be located entirely to the rear of the principal residential structure.

- v. Fecal waste or litter shall be removed at such reasonable times to prevent odors from emitting over property lines. Such waste or litter must be double bagged and disposed of in city garbage or composted provided the method used and the location does not present a public nuisance or health issue.
- vi. Slaughter of any kind shall be prohibited within the City of Minneapolis.
- vii. Roosters shall be prohibited without special permit.
- viii. A permit to keep more than six (6) fowl or to keep roosters shall require the written consent of at least eighty (80) percent of the occupants of the several descriptions of real estate situated within one hundred (100) feet of the applicant's real estate. Such written consent shall be required on the initial application and as often thereafter as MACC deems necessary.
- ix. Any coop found to be a public nuisance provided notice to abate the issues has failed to correct the issue within a reasonable time is prohibited and all permits associated with the coop may be revoked or denied. The coop and all fowl shall be removed by the property owner within forty-eight (48) hours of notice of the revoked or denied permit at the expense of the permit holder or applicant.
- x. MACC may deny, suspend, revoke or take other authorized adverse action against any permit applied for or granted pursuant to this section if any condition or requirement is violated or if the keeping of fowl becomes a public nuisance or for other good cause.
- xi. Public nuisance for the purpose of coops includes, without limitation, any chicken coop that on three (3) or more occurrences in a twelve (12) month period receives complaints of noise, odor, or any other violation from more than one complainant, provided the complaints are founded and established by MACC.
- xii. No person, business, or entity shall maintain or cause to be maintained any commercial business related to the keeping of fowl on residential property unless otherwise permitted by the City of Minneapolis. If so permitted, commercial coops must:
  - 1. Maintain any applicable business license, health department permit, zoning permit, and permit issued by the MACC.
  - 2. Be limited to thirty (30) fowl of any kind with at least four (4) square feet provided for each fowl housed inside the physical coop and ten (10) square feet for each fowl while housed in outside run.
  - 3. Be maintained in such a manner as to prevent a public nuisance.
  - 4. Comply with all zoning and health regulations as well as any other applicable law.
  - 5. Be properly identified as required by MACC.
  - 6. Provide adequate care, as defined in this title.
  - 7. Provide adequate safeguards to protect the fowl from animals and to prevent unauthorized access to the fowl by general members of the public.
  - 8. Be kept in good repair, maintained in a clean and in a sanitary condition, and free of any vermin, obnoxious smells, and substances. ( [Ord. No. 2016-009](#), § 1, 2-12-16)

returned to the owner provided the owner shall first pay for the cost of keeping said animal. If the owner does not claim or retrieve the animal, the animal may be disposed of as provided in this code of ordinances.

- b. Whenever the city can determine the person owning, possessing or harboring the animal that has bitten the human being, the city may permit the owner to impound such animal for a period of 10 days separate and apart from other animals under the supervision of a licensed veterinarian until it is determined whether the animal had or has rabies. If the animal is rabid, it shall be destroyed. In all cases, the city shall make the determination of how the animal shall be impounded, and shall base its decision upon the owner's ability to properly impound the animal, and the current rabies vaccination status of the animal.
2. *Animal bites animal.* Any animal known to have been bitten or exposed to rabies shall be impounded or destroyed; provided, however, that such animal may be immediately destroyed, if with reasonable effort it cannot first be taken up and impounded. If such an animal is impounded, it shall not be destroyed if the owner makes provision for suitable quarantine for a period of not less than 6 months, or proof of immunization is furnished and booster injections are given by a licensed veterinarian at the expense of the owner.

#### H. *Hen chickens.*

1. No more than 5 hen chickens are allowed on any parcel of land in the city.
2. Every person who owns, controls, keeps, maintains, or harbors hen chickens must keep them confined on the premises at all times in a chicken coop or chicken run. Hen chickens are not allowed in any part of a house or garage.
3. Any chicken coop or chicken run must comply with all applicable building and zoning codes and regulations.
4. No chicken coop or run shall be constructed on any parcel of land before construction of the principal building.
5. A chicken coop or run cannot be located in the front or side yard.
6. A chicken coop or run must be setback at least 50 feet from any residential structure on any adjacent lot and at least 10 feet from the property line.
7. A chicken coop or run must be screened from view with a solid fence or landscaped buffer with a minimum height of 4 feet.
8. A chicken coop can be no larger than 10 square feet per chicken and cannot exceed 6 feet in height. A chicken run cannot exceed 20 square feet per chicken and the fencing cannot exceed 6 feet in height. A chicken run may be enclosed with wood or woven wire materials, and may allow chickens to contact the ground. A chicken run must have a protective overhead netting to keep the chickens separated from other animals.
9. A chicken coop must be elevated a minimum of 12 inches and a maximum of 24 inches above grade to ensure circulation beneath the coop.
10. Chicken grains and feed must be stored in rodent-proof containers.
11. No chicken may be kept or raised in a manner as to cause injury or annoyance to persons on other property in the vicinity by reason of noise, odor, or filth.
12. Any chicken running at large may be impounded by the city and, after being impounded for 3 days or more without being reclaimed by the owner, may be destroyed or sold. A person reclaiming any impounded chicken must pay the cost of impounding and keeping the same.

**§ 91.46 REPORT OF DOG BITE.**

Any person knowing of a human being bitten by a dog shall immediately notify the Police Department and the dog shall then be confined and kept under observation for a period of 10 days before being disposed of, if necessary.  
(Ord. 08-007, passed 12-8-2008)

***ANIMALS PROHIBITED AS NUISANCES*****§ 91.55 HABITUAL BARKING.**

(A) It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least 5 minutes with less than 1 minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) The animal control officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

Penalty, see § 10.99

**§ 91.56 KEEPING OF CERTAIN ANIMALS.**

No person may keep farm animals or wild animals as defined in this Code, nor more than 2 dogs or 3 dogs allowed under § 91.01 through 91.05 or fowl, within the city nearer than 500 feet to any human habitation or platted land, without approval of the City Council. The City Council may, before approving or denying any request for approval, request a report from the Health Officer concerning the effect on public health.

(1993 Code, § 1210.02) Penalty, see § 10.99 (Am. Ord. 2022-07, adopted 10-11-22)

**§ 91.57 FEEDING OF WILD ANIMALS.**

1) No person shall intentionally feed wild animals within the City. Intentional feeding means the provision of any grain, fruit, vegetables, nuts, salt licks, or any other food that attracts wild animals.

a) Living food sources such as trees and other live vegetation shall not be considered food for wild animals.

2) Feeding Songbirds. The feeding of songbirds is permitted under the following conditions:

a) Feeding is done from a bird feeder that is designed to prevent other wild animals from feeding and is placed at least 5 feet above the ground.

b) The bird feeder does not become an attractive nuisance to other wild animals.

c) Songbird feeding occurs on private property owned or controlled by the person responsible for the feeder.