



**Agenda
Minnetonka City Council
Regular Meeting
Monday, October 4, 2021
6:30 p.m.
Council Chambers**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call: Schaeppi-Coakley-Kirk-Schack-Carter- Calvert-Wiersum
4. Approval of Agenda
5. Approval of Minutes:
 - A. September 13, 2021 regular meeting
6. Special Matters:
 - A. National Disability Employment Awareness Month Proclamation
Recommendation: Read the proclamation
7. Reports from City Manager & Council Members
8. Citizens Wishing to Discuss Matters Not on the Agenda
9. Bids and Purchases: None
10. Consent Agenda - Items Requiring a Majority Vote:
 - A. Resolution in support of Noise Walls along TH-169 and TH-7
Recommendation: Adopt the resolution (4 votes)
 - B. Resolution concerning no parking in the Opus area
Recommendation: Adopt the resolution (4 votes)

Minnetonka City Council meetings are broadcast live on Comcast: channel 16 (SD), channel 859 (HD); CenturyLink Prism: 238 (SD), 1238 (HD).
Replays of this meeting can be seen during the following days and times: Mondays, 6:30 p.m., Wednesdays, 6:30 p.m., Fridays, 12 p.m., Saturdays, 12 p.m. The city's website also offers video streaming of the council meeting.
For more information, please call 952.939.8200 or visit <https://www.minnetonkamn.gov>

- C. Agreement for Hennepin County Healthy Tree Canopy Grant
Recommendation: Authorize the approval (4 votes)
- D. Resolution opening a portion of Oric Avenue
Recommendation: Adopt the resolution (4 votes)
- E. Resolution declaring the official intent to reimburse certain expenditures from the proceeds of bonds to be issued
Recommendation: Adopt the resolution (4 votes)
- F. Resolution appointing election judges and absentee ballot board for the Nov. 2 General Municipal Election
Recommendation: Adopt the resolution (4 votes)
- 11. Consent Agenda - Items Requiring Five Votes: None
- 12. Introduction of Ordinances: None
- 13. Public Hearings:
 - A. Gas franchise ordinance with CenterPoint Energy Resources Corp.
Recommendation: Adopt the ordinance (4 votes)
 - B. On-sale intoxicating, Sunday on-sale intoxicating, and off-sale intoxicating liquor licenses to Yayin Gadol, LLC d/b/a Top Ten Liquors at 1641 Plymouth Road
Recommendation: Open the public hearing and continue to Nov. 8, 2021 (4 votes)
- 14. Other Business:
 - A. Ordinance regarding accessory dwelling units in residential zoning districts
Recommendation: Review the planning commission recommendations and adopt the ordinance (4 votes)
 - B. Ordinances regarding licensed residential care facilities
Recommendation: Discuss the planning commission recommendations and adopt an ordinance (4 votes)
- 15. Appointments and Reappointments: None
- 16. Adjournment

**Minutes
Minnetonka City Council
Monday, September 13, 2021**

1. Call to Order

Mayor Brad Wiersum called the meeting to order at 6:30 p.m.

2. Pledge of Allegiance

All joined in the Pledge of Allegiance.

3. Roll Call

Council Members Deb Calvert, Bradley Schaeppi, Susan Carter, Brian Kirk, Rebecca Schack, and Brad Wiersum were present.

Council Members Kissy Coakley (excused) was absent.

4. Approval of Agenda

Wiersum suggested Reports from Council Members be moved to the end of the agenda and be discussed as Item 14.I.

Calvert moved, Schack seconded a motion to accept the agenda as amended with addenda to Item 10.B, 13.A, 14.C, 14.D, 14.E and 14.I. All voted "yes."
Motion carried.

5. Approval of Minutes:

A. August 16, 2021 study session

Calvert moved, Kirk seconded a motion to approve the minutes, as presented. All voted "yes." Motion carried.

B. August 23, 2021 regular meeting

Calvert moved, Kirk seconded a motion to approve the minutes, as presented. All voted "yes." Motion carried.

6. Special Matters: None

7. Report from City Manager

Acting City Manager Mike Funk reported on upcoming city events and council meetings.

8. Citizens Wishing to Discuss Matters not on the Agenda: None

9. Bids and Purchases:

A. Bids for the Shady Oak Lake Outlet Project

Public Works Director Will Manchester gave the staff report.

Kirk asked if the outlet would be located on the south side of the trail. He noted the milfoil was thick in this area. Manchester explained staff was evaluating the milfoil location and would be completing a study this fall. He indicated staff does not see any concerns at this time.

Kirk questioned if there would be greater tree loss due to the depth of the pipe. Manchester commented there would be limited tree loss. He indicated most of the excavation would occur within the trail and street to minimize the tree loss.

Kirk moved, Schack seconded a motion to award the contract and to amend the CIP. All voted "yes". Motion carried.

10. Consent Agenda – Items Requiring a Majority Vote:

Schaeppi stated he would like to pull Item 10.C for further discussion.

A. Final plat of ISLAND OAKS, a residential six-lot subdivision, at 16509 McGinty Road West

Calvert moved, Carter seconded a motion to adopt Resolution 2021-082. All voted "yes." Motion carried.

B. Ordinance authorizing the sale of a portion of city-owned property at 14840 Highway 7

This item was moved to Item 14.D2.

C. Ordinances amending City Code 1120 (small cell wireless) and 1105 (driveways), regarding right-of-way management

This item was pulled from the Consent Agenda for further discussion.

D. Resolution for the Opus Lift Station Secondary Forcemain Project

Calvert moved, Carter seconded a motion to adopt Resolution 2021-083. All voted "yes." Motion carried.

C. Ordinances amending City Code 1120 (small cell wireless) and 1105 (driveways), regarding right-of-way management

Schaeppi reported the city has very little local control over small cell wireless towers. He explained there was language within the ordinance stating small cell wireless towers would be allowed "where feasible". He requested further comment from staff on this. City Attorney Corrine Heine advised the language under concealment states when feasible, concealment elements must be incorporated into the proposed design of the small wireless facility installation. She reported staff proposed this change to the ordinance because one of the applicants wanted to put its facility on an existing Xcel electric distribution pole and Xcel has limitations on what they will allow. For this reason, the city wants to facilitate small cell facilities co-locating on existing poles. She indicated the second change in Section 3 of the ordinance applies only to new support structures, requiring new support structures have to be a minimum of two lot lines or a minimum of 200 feet away from existing support structures on the same side of the street, when feasible. She commented there were some streets that have a high number of poles and the proposed language will help with proper pole distribution.

Schaeppi moved, Schack seconded a motion to adopt Ordinance 2021-14 and Ordinance 2021-15. All voted "yes." Motion carried.

11. Consent Agenda – Items requiring Five Votes: None

12. Introduction of Ordinances:

A. Gas franchise ordinance with CenterPoint Energy Resources Corp.

City Attorney Corrine Heine gave the staff report.

Wiersum reported this was an ordinance introduction and would come back to the council on October 4, 2021.

Calvert moved, Kirk seconded a motion to introduce the ordinance. All voted "yes." Motion carried.

B. Ordinance regarding tree protection

City Planner Loren Gordon gave the staff report.

Calvert thanked staff for all of their work on this ordinance. She discussed how trees provide habitat for other forms of wildlife and she appreciated the fact there were some non-native trees across from her house. She requested the city explore the advantages and disadvantages of valuing non-native tree species in Minnetonka. She discussed the woodland preservation ordinance requirements and recommended the woodland preservation areas be further protected once it has had 25% of its trees removed.

Kirk stated he would like to ensure property owners rights are also protected. In addition, he recommended staff seek comment from developers on the proposed tree ordinance. He questioned if the tree ordinance was fair or was it pushing things too far. Community Development Director Julie Wischnack reported Minnetonka has one of the tougher ordinances to follow. She explained staff encourages developers to do their homework prior to purchasing property.

Kirk recommended the planning commission consider the greater good be considered. He indicated he loves the trees, but also understood the occasional exception should be made.

Schaeppi thanked staff for their efforts on this ordinance. He noted he just had to removed a diseased tree from his property. He asked how the city becomes aware of diseased trees. Gordon explained this is typically triggered by redevelopment projects, are noticed along a right-of-way, or because staff has been prompted to go to the site. He described how the city forester/arborist assists with determining tree health.

Schaeppi stated he concurred with Councilmember Calvert and explained he would like to learn more about the preservation and value of non-native trees.

Schack commented she saw the perspective of the 25% woodland preservation, and how this could compound over time. She explained it would be interesting to see how other communities were addressing woodland preservation matters. She recommended the city keep the public good in mind when it comes to affordable housing or alternative housing stock. She wanted to be assured that the proposed ordinance was not keeping the city from having additional affordable housing options.

Calvert stated she appreciated the comments from Councilmember Schack, but also understood the city had to protect the environment from heat islands and climate warming for everyone.

Wiersum explained reorganizing and simplifying the ordinance was a good idea. He commented on a meeting he attended several years ago that addressed the value of trees in communities. He encouraged the planning commission to think about how the climate was changing and to consider what trees would thrive in

Minnetonka. He stated all trees were good and he wanted to see all trees be resilient.

Schack moved, Calvert seconded a motion to introduce the ordinance. All voted "yes." Motion carried.

13. Public Hearings:

A. Resolutions for special assessment of 2020-2021 projects

Finance Director Darin Nelson gave the staff report.

Wiersum opened the public hearing.

There being no comments from the public, Wiersum closed the public hearing.

Kirk moved, Carter seconded a motion to adopt Resolution 2021-084, Resolution 2021-085, Resolution 2021-086, Resolution 2021-087, Resolution 2021-088, Resolution 2021-089, Resolution 2021-090 and Resolution 2021-091. All voted "yes." Motion carried.

14. Other Business:

A. Item related to the Birke at 11700 Wayzata Boulevard

Community Development Director Julie Wischnack gave the staff report.

Calvert moved, Kirk seconded a motion to adopt Resolution 2021-092. All voted "yes." Motion carried.

B. Resolutions pertaining to the Affordable Housing Trust Fund

Community Development Director Julie Wischnack gave the staff report.

Schack commented this was a creative tool to assist with affordable housing and noted she supported the proposed resolutions. She thanked staff for all of their efforts on this matter.

Calvert concurred and thanked the city's legislators for allowing Minnetonka to be part of a pilot program. She stated she was proud to have this valuable tool in place to assist with affordable housing.

Carter reported by 2026 the city could add another \$1 million or upwards of \$6 million for affordable housing. She appreciated both the courage and creativity the city had in finding new ways to fund affordable housing.

Wiersum stated the legislature had to take special action on this item. He appreciated the innovation and determination the city had in addressing affordable housing.

Calvert moved, Schack seconded a motion to adopt Resolution 2021-093, Resolution 2021-094, Resolution 2021-095 and Resolution 2021-096. All voted "yes." Motion carried.

C. Resolution for the Minnetonka Boulevard Trail Project

Public Works Director Will Manchester gave the staff report.

Schack thanked staff for the detailed staff report. She asked if this project was coming out of order in the city's trail priority. She questioned if the crosswalks were included from the trail expansion fund. Manchester explained this project was slightly out of order but this was discussed in the past. He noted this was not a huge shift. He indicated the payment of the crossings was included in the project, but noted the crossing at Groveland would be a separate CIP item.

Schaeppi thanked staff for all of their work on this project. He understood there were a lot of passionate neighbors that live within this project area. He explained this was an exciting project for the residents living in Ward 3. He discussed how this trail would be a great connection to have in the community. He asked when discussions on the design of the islands would be closed. Manchester stated staff was still open to feedback. He noted staff would be working in coordination with Bolton & Menk on this project.

Schaeppi commented how RRFB signals help in assisting with vehicular compliance at pedestrian crosswalks. He shared some data with the council regarding this and thanked staff for providing the council with this information. He discussed his experiences biking in the community and explained he appreciated all safety measures that could be put in place for cyclists and pedestrians. He requested staff investigate if it would be more effective to have a sign posted over the roadway along with a flashing sign.

Kirk stated he understood this was a very time consuming project for staff. He explained he appreciated the five foot shoulder for bikers and noted this lane would keep the sidewalks safer for walkers. He commented he also appreciated the island median.

Wiersum reported pedestrian safety was vitally important for the community. He stated he understood the trails in the community were an important amenity to the residents of Minnetonka. He explained he was supportive of the safety

measures that were included in this plan. He encouraged all drivers and pedestrians in the community to be safe.

Carter stated she lived in the project area and greatly appreciated the new trail. She was of the opinion the families in the neighborhood would take advantage of the new trail and would be walking their children to and from school.

Carter moved, Schaeppi seconded a motion to adopt Resolution 2021-097. All voted "yes." Motion carried.

D. Items relating to Goddard School, a daycare facility, at 14900 Highway 7

City Planner Loren Gordon gave the staff report.

Calvert thanked staff for working to save an oak tree on this property. She explained she appreciated the landscaping work on this property. She noted this would be a tremendous improvement to this site.

Schaeppi reported the applicant lives on Towns Road right next to him and noted the applicant was shifting from being a lifelong educator to being a new business owner.

Taryn Kline, Goddard Systems, thanked the council for their time and consideration.

Calvert moved, Schaeppi seconded a motion to adopt Ordinance 2021-16 and Resolution 2021-098. All voted "yes." Motion carried.

D2. Ordinance authorizing the sale of a portion of city-owned property at 14840 Highway 7

Community Development Director Julie Wischnack gave the staff report.

Calvert moved, Schaeppi seconded a motion to adopt Ordinance 2021-17. All voted "yes." Motion carried.

Wiersum recessed the city council meeting.

Wiersum reconvened the city council meeting.

E. Items concerning Doran Development at 5959 Shady Oak Road

City Planner Loren Gordon gave the staff report.

Kirk discussed the pollinator friendly landscaping and questioned if a honeybee hive would be included. Gordon clarified the applicant would be working with the University of Minnesota Bee Lab to have a wide variety of pollinator species included in the project. He explained staff reached out to Doran Development and was informed bee hives would not be constructed.

Kirk commented how honeybees compete with the rusty patch bumblebee and stated he would like to keep the rusty patch bumblebee protected.

Kirk moved, Calvert seconded a motion to adopt Ordinance 2021-18 and Resolution 2021-099. All voted "yes." Motion carried.

F. 2022 – 2026 Economic Improvement Program (EIP)

Economic Development and Housing Manager Alisha Gray gave the staff report.

Calvert asked if the city were to revert back to a regular payment system for the DPA that was made annually or bi-annually, and could this program last more than 10 years. Gray reported the EDAC reviewed this several years ago and at that time the discussion was around not creating a burden for new homeowners. She explained if the city were to revert back to monthly payments, the program could be extended out further, but would come at the cost to having new homeowners making payments.

Wiersum stated the \$47,000 made in repayments each year was getting smaller. He commented even if repayments fell by 50%, the program could still be extended 10 to 13 years.

Schaeppi questioned what Minnetonka residents were gaining by the money spent on transit each year. Wischnack explained the benefit of the fee was to support commuter services. She noted the fee was paid based on the city's population.

Schack commented another component was assistance or advice provided to employers regarding carpool sharing programs, van sharing, bike to work, etc. She explained during the COVID pandemic, there was also assistance provided for those beginning to telework. She commented on the work being done in I-494. She believed Minnetonka received a good value for the amount that was paid by the city.

Wiersum inquired how much the city expended supporting businesses in 2020 and what was the response from businesses. Gray stated the city had \$225,000 committed to business assistance and the city had an overwhelming response to these funds from local business owners. She indicated other state and county

programs have also rolled out to assist Minnetonka businesses that were struggling.

Wiersum stated he was proud of the fact Minnetonka stepped up and helped its businesses and residents that were in need of help. He believed these dollars made a real difference to the local businesses and residents.

Carter asked what staff's understanding was of going into a round two or nuisance secondary response to COVID. Gray stated by completing a business survey staff would have a better understanding as to what needs are not being met and the remaining funds could be tailored to meet these needs.

Calvert questioned what pot of money the original business grants came from. She inquired what type of service a special service district would provide. Gray reported the initial funds were reallocated from the HRA Levy Loan Program. She commented there was another pool of ARPA funds that could be used to assist with business grants. Wischnack commented further on the purpose of a special service district in the community noting there was a petition process for local businesses in order to create a special service district.

Wiersum explained he understood there were small businesses that were stretched very thin and may be susceptible to failing. He inquired if the city had funds to assist businesses in these circumstances. Gray reported the city had \$50,000 available in 2021, along with an additional \$750,000 in ARPA funds that could be used to assist struggling businesses.

Further discussion ensued regarding LRT and how COVID has impacted this transportation service.

Kirk questioned if the city would have to dedicate land to sheltered bus stops for future bus lines. Wischnack explained this would be the city's responsibility.

Calvert requested further information regarding the motor vehicle sales tax (MVST) money. Wischnack provided the council with clarification on this topic and explained the city could pull out of its contract with Metro Transit. However, when discussed by the council previously, it was believed the city was receiving a good value for the dollars spent.

Carter stated as the city commits to more affordable housing, expands its efforts regarding sustainability and doubles down on climate, these were extensions of the city's commitment to transit. She reported these would be ways the city makes Minnetonka a place for all people that want to live, work and play here. She commented if plans are not made for connector transit buses and increased ridership on rail, which has been underestimated for middle and higher income

individuals, then the city was not manifesting its goals around affordable housing, sustainability and climate.

Calvert explained this was an excellent document and stated she appreciated the on point comments made by Councilmember Carter.

Wiersum commented on the affordable housing/homes within reach section of the document. He noted he supported the city investing \$125,000 in the HRA levy. He reported he supported homes within reach but also supported maximizing the city's utility for dollars expended. He discussed how the city's role with homes within reach had changed noting there were maybe one or two homes in the program per year. He commented on the value of having owner-occupied affordable housing in the community and encouraged the council to consider the bang for the buck with this program.

Carter stated she spoke with Acting City Manager Funk regarding this topic and suggested the council prepare to further discuss the communities that were providing funding for homes within reach. She explained it appeared to her there were only two communities actually providing local funding, Minnetonka and Richfield, while other communities were relaying federal dollars. She stated she was also interested in the revolving loan program that was in place in Edina.

Schack moved, Kirk seconded a motion to adopt Resolution 2021-100. All voted "yes." Motion carried.

G. 2022-2026 Capital Improvements Program (CIP)

Finance Director Darin Nelson gave the staff report.

Schaeppi asked if staff had an idea of the expense for the Tonkawood project. Nelson reported engineering staff was working diligently on this to ensure estimates were coming back conservatively and on target. Public Works Director Will Manchester reported staff was working to get as close as they can on the pricing for this project.

Schaeppi commented he looked forward to learning more about how passive and active dollars are spent by the city.

Kirk moved, Calvert seconded a motion to adopt Resolution 2021-101. All voted "yes." Motion carried.

H. Items related to the 2021 preliminary tax levy:

- 1) Resolution setting a preliminary 2021 tax levy and preliminary 2021 HRA levy, collectible in 2022, and a preliminary 2022 budget,**

and consenting to a special benefit tax levy on the Minnetonka Economic Development Authority

2) Resolution setting preliminary 2021 tax levy, collectible in 2022, for the Bassett Creek Watershed Management Tax District

3) Motion accepting American Rescue Plan Act grant award and distribution plan G

Acting City Manager Mike Funk and Finance Director Darin Nelson gave the staff report.

Calvert explained it was always difficult to vote to support an increase in property taxes. She understood that there were people still hurting from the pandemic and she appreciated staff's efforts to keep the levy down. She noted this was a more modest levy than would normally be approved due to the ARPA funds. She thanked staff for their hard work and for the detailed presentation.

Schack stated over the past two years staff has been asked to do a lot. She appreciated all of staff's efforts and for being conservative with costs. She noted she was supportive of the preliminary budget and tax levy.

Kirk asked what the value was of 1% of the tax levy. Nelson reported this equated to \$450,000.

Kirk explained that bringing on nine firefighters would cost the city approximately \$950,000 which was 2% of the tax levy. He commented one of the most significant comments made this evening was that Minnetonka does not rely on special assessments to complete its streets and this should be taken into consideration when looking at the overall tax rate for the city when compared to neighboring communities. He thanked staff for all of their efforts and noted he would be supporting proposed tax levy.

Carter commented she supported the tax levy at 5.6% and had hope of improving these numbers by December. She believed staff had done a great deal of cutting prior to bringing the preliminary budget and tax levy to the council and she appreciated these efforts.

Schaepfi thanked staff for all of their efforts. He commented on the expenditures the city had in the coming years and stated it would be interesting to see where the tax levy came in for 2022 and 2023.

Wiersum understood that less was always better than more when it came to property taxes. However, he also understood it was important to have great services for Minnetonka residents. He believed staff had brought forward a good

budget and he looked forward to discussing this further prior to December. He noted 40% of the levy increase was due to capital improvements. He discussed how Minnetonka differed from other communities because it does not have municipal liquor or hotel taxes. He commented further on how the median value homeowner would be impacted by the proposed levy and stated he anticipated the council would be hearing from residents. He hoped the city would receive the safer grant as this would assist with bringing down the levy. He stated he appreciated all the city and its staff provided for Minnetonka residents.

Kirk moved, Calvert seconded a motion to adopt Resolution 2021-102, Resolution 2021-103 and approve the motion accepting American Rescue Plan Act Grant Award and Distribution Plan G. All voted "yes." Motion carried.

I. Reports from Council Members

Calvert wished all those who celebrate a happy new year and meaningful Yom Kippur. She discussed the terroristic threats that were made against the Bethel Synagogue in St. Louis Park and noted 30 headstones were overturned in a Jewish cemetery in St. Paul. She hoped that people across the country could redouble their efforts in tolerance and acceptance for people that are different than they are.

Schaepfi thanked Audrey, the aqua tots recreation teacher for her good work on behalf of the community.

Carter commented the council's previous conversation regarding the development of the Bensman farm. She reported Trish, who used to live in this area, sent her a note sharing good news. She explained Carol Bensman recently visited the new development and liked what she saw. Ms. Bensman appreciated the fact that the neighborhood fought to build less homes.

Schack thanked staff and commission members for participating in a tour of the new projects in the community.

Kirk discussed the ribbon cutting ceremony that was held for the multi-use mountain bike trail at Lone Lake Park. He noted this was a well-attended event and he appreciated how many families were already enjoying the trail.

Wiersum stated he was pleased to be at the ribbon cutting ceremony for the bike trail at Lone Lake Park. He explained the people using this trail were very appreciative which included walkers, bikers and snow-shoers. He was of the opinion the benefit of this trail would be significant to the community.

Wiersum discussed the farewell events that were held last week in honor of City Manager Geralyn Barone.

Wiersum commented on the regional conference of mayors event he attended noting ARPA funding was the main topic of discussion.

15. Appointments and Reappointments: None

16. Adjournment

Kirk moved, Schack seconded a motion to adjourn the meeting at 10:44 pm. All voted "yes." Motion carried.

Respectfully submitted,

Becky Koosman
City Clerk



City of Minnetonka Proclamation

2021 National Disability Employment Assistance Month October 2021

- WHEREAS October 2021 marks the 76th anniversary of National Disability Employment Awareness Month; and
- WHEREAS The purpose of National Disability Employment Awareness Month is to educate about disability employment issues and celebrate the many and varied contributions of America's workers with disabilities; and
- WHEREAS The history of National Disability Employment Awareness Month traces back to 1945 when Congress enacted a law declaring the first week in October each year "National Employ the Physically Handicapped Week;" and
- WHEREAS In 1962, the word "physically" was removed to acknowledge the employment needs and contributions of individuals with all types of disabilities; and
- WHEREAS In 1988, Congress expanded the week to a month and changed the name to National Disability Employment Awareness Month; and
- WHEREAS Workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of our efforts to build an inclusive community and strong economy; and

THEREFORE, BE IT RESOLVED, That the City Council of the City of Minnetonka recognize and commemorate the 76th anniversary of National Disability Employment Awareness Month

Brad Wiersum, Mayor

October 4, 2021



**City Council Agenda Item 10A
Meeting of October 4, 2021**

Title: Resolution in support of Noise Walls along TH-169 and TH-7

Report From: Chris Long, P.E., Assistant City Engineer

Submitted through: Mike Funk, Acting City Manager
Will Manchester, P.E., Public Works Director
Phil Olson, P.E., City Engineer

Action Requested: Motion Informational Public Hearing

Form of Action: Resolution Ordinance Contract/Agreement Other N/A

Votes needed: 4 votes 5 votes N/A Other

Summary Statement

In response to resident requests for noise walls along TH-169 and TH-7, a resolution of support is required by the state to apply for state noise wall construction funding, in accordance with MnDOT's Sound Abatement Along Highways policy. MnDOT will not consider project funding of this type without a resolution stating the city agrees to a 10% cost share for the project.

Recommended Action

Adopt the attached resolution of support for the construction of noise walls along the west side of Trunk Highway 169, between Cedar Lake Road and Ford Park, and also along the south side of Trunk Highway 7, between Carlyse Place and Clear Springs Road.

Strategic Profile Relatability

- | | |
|---|--|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input checked="" type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The noise wall improvements provide infrastructure to mitigate highway noise.

Financial Consideration

- Is there a financial consideration? No Yes \$500,000.00
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Upcoming CIP]

Statement: Based on MnDOT's current project list, if state funding is considered, construction could occur as soon as 2027 and would be proposed within the 2023-2027 Capital Improvement Program for council consideration.

Background

The Minnesota Department of Transportation (MnDOT) has been constructing noise walls and barriers during roadway construction projects since the mid-1970s. In 1974, the Minnesota State Legislature directed the Minnesota Pollution Control Agency (MPCA) to adopt state noise standards.

In 1995, the Minnesota State Legislature directed MnDOT (MN Statute 161.125 Sound abatement along highways) to develop a statewide priority list to direct state resources to mitigate traffic noise for locations not adjacent to new roadway construction, when mitigation may be required by federal law.

MnDOT has developed the Standalone Noise Barrier Program in order to address the legislative directive and provide funding for construction of noise barriers along state highways in areas where no noise abatement measures exist and no major construction projects are currently programmed. The Metro District currently provides \$2 million in annual discretionary funding for this program, which typically would fund construction for one noise wall site per year. Selected standalone noise barrier projects require a 10% cost share from the city where the noise barrier is being proposed.

In order to determine areas that may be eligible for the Standalone Noise Barrier Program, MnDOT Metro maintains a list of areas within the Metro District where federal residential noise standards are exceeded. These areas are ranked based on existing noise levels, number of homes adjacent to the highway, and cost effectiveness of a noise barrier. The ranking list is updated approximately every five years with the next update in 2022. The City of Minnetonka has the following three areas identified within the 2016 Highway Noise Abatement Study, which could be eligible for this program:

- Ranking #18: TH-7 between West of Carlyse Place and East of Carlyse Place
- Ranking #27: TH-169 between Cedar Lake Road and Ford Park
- Ranking #49: TH-7 between East of Carlyse Place and East of Clear Springs Road

Solicitation-Based Application for Noise Wall Projects

In 2018, MnDOT Metro updated the Standalone Noise Barrier program to a solicitation-based process, where cities must submit applications to be considered for noise wall funding. MnDOT is currently seeking applications for potential noise wall project(s) in fiscal year 2027.

Petitions and Noise Wall Requests

On March 24, 2021, staff received a petition with 53 signatures to build a noise barrier from the Preston Trails Homeowner Association located on the west side of TH-169, north of Cedar Lake Road.

Staff has also received several requests in the past for noise barriers along the project areas of TH-169 and TH-7 as identified above.

Estimated Project Costs and Funding

The preliminary estimated costs to construct the noise walls in the three areas identified above is \$5,000,000, of which the city cost share of 10% is estimated at \$500,000. Proposed funding could be included in future Capital Improvement Programs (CIP).

Schedule

If the recommended actions are approved by council, staff will proceed with applications to MnDOT for the Standalone Noise Barrier program based on support by resident petition, in which one has already been received. If a project area is selected, the earliest fiscal year available for construction is in 2027.

Timeline for the current solicitation:

- Dec. 31, 2021: Applications due from cities.
- Spring 2022: MnDOT conducts noise analysis for applications received and ranks applications based on existing noise levels, length of barrier, number of benefited homes and cost-effectiveness of a noise barrier.
- Spring 2022: MnDOT announces selected project.
- 2022 to 2023: Project is scoped and programmed by MnDOT.
- 2023 to 2026: MnDOT designs project.
- 2027: Begin construction.

Resolution No. 2021-XXX

Resolution approving support to the Minnesota Department of Transportation – Noise Wall

Be it Resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. The State of Minnesota, acting through its Commissioner of Transportation (MnDOT) and in accordance with Statute 161.125 – Sound Abatement Along Highways, proposes to study, design, and construct noise wall improvements, tentatively scheduled in the year 2027, for the areas along the west side of Trunk Highway 169 within the City of Minnetonka (City) limits, between approximately Cedar Lake Road and Ford Park, and also along the south side of Trunk Highway 7, between approximately Carlysle Place and Clear Springs Road.
- 1.02. Through staff recommendation, the City of Minnetonka supports the continued study and design of the noise wall improvements, and have agreed to consider the City’s participation in costs of the noise wall construction and associated construction engineering in the City’s future Capital Improvement Program.

Section 2. Council Action.

- 2.01. The City of Minnetonka approves this resolution of support for the construction of noise walls along the west side of Trunk Highway 169 within the City of Minnetonka (City) limits, between approximately Cedar Lake Road and Ford Park, and also along the south side of Trunk Highway 7, between approximately Carlysle Place and Clear Springs Road.

Adopted by the City Council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

- Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:

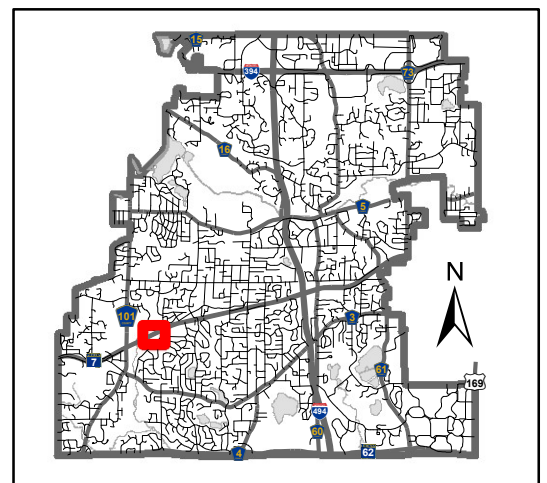
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk

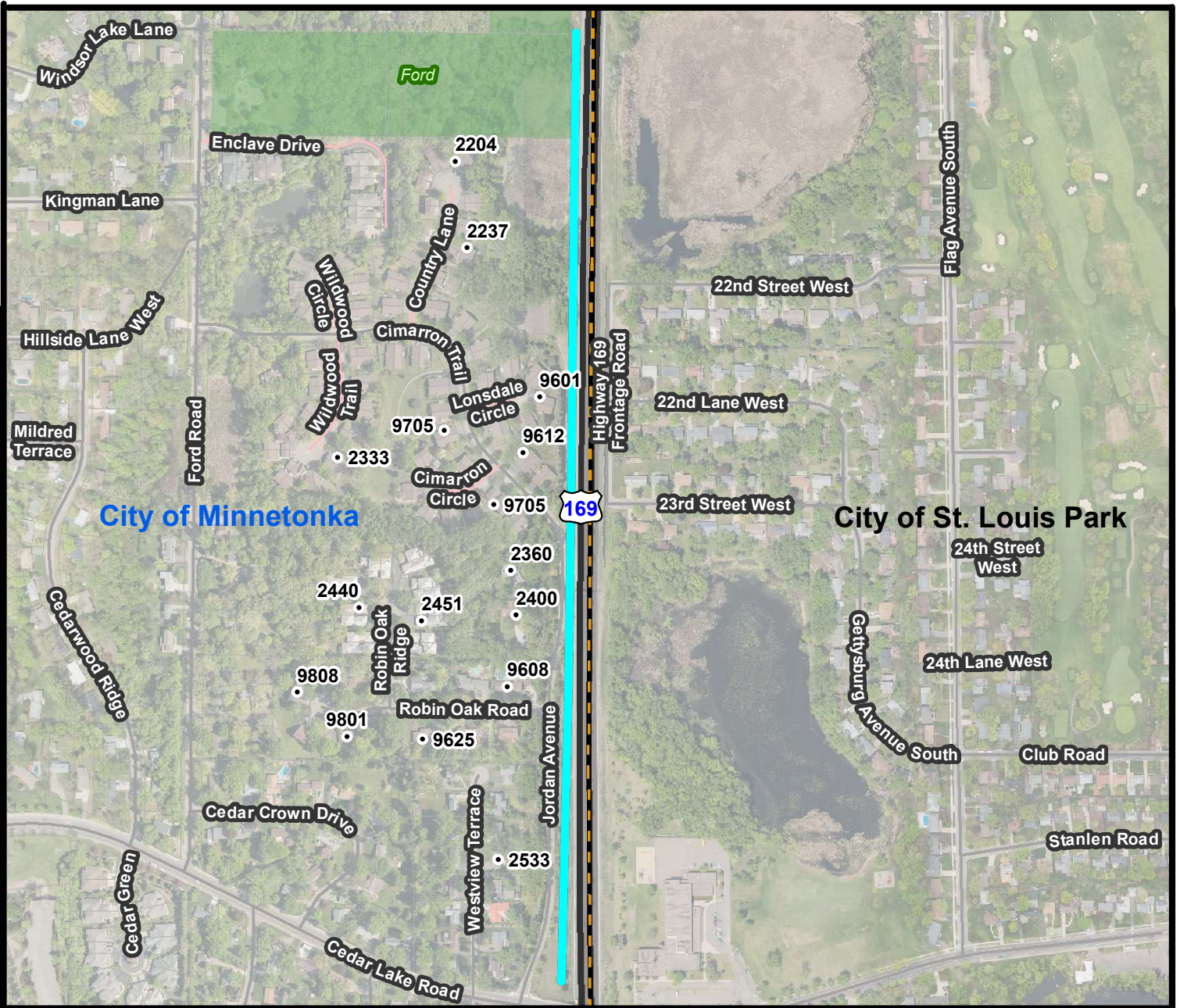


Proposed Noise Wall Segments - TH-7

- MnDOT's 2016 Noise Abatement Study Ranking: 18
- MnDOT's 2016 Noise Abatement Study Ranking: 49

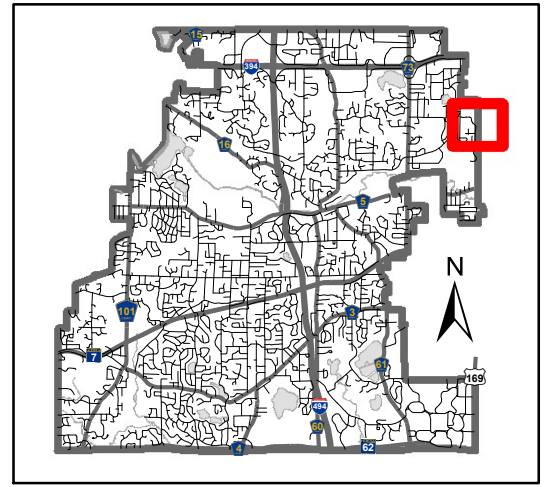


This map is for illustrative purposes only.



Proposed Noise Wall Segments - TH-169

- █ MnDOT's 2016 Noise Abatement Study Ranking: 27
- Municipal Boundary Line



This map is for illustrative purposes only.

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Irit Vinitzky

ADDRESS 2329 Wildwood Trail, mtka, MN 55305

SIGNATURE 

DATE 10/20/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Lynn Goldman
ADDRESS 9798 Cimmaron Circle
SIGNATURE Lynn Goldman
DATE 9-27-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Patricia Wilson
ADDRESS 9709 Cimarron Trail, Minnetonka, MN
SIGNATURE Patricia Wilson
DATE 10/6/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Corliss E Tuttle

ADDRESS 2249 Country Lane, Minnetonka

SIGNATURE Corliss E. Tuttle

DATE Oct 1, 20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Susan Skrien
ADDRESS 2200 Country Lane Minnetonka MN
SIGNATURE Sus Skrien 55305
DATE 10/06/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Melanie Lynn Davenport
ADDRESS 9809 Cimarron Trail
SIGNATURE Melanie Lynn Davenport
DATE 9/30/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Stephen R Wentzell

ADDRESS 2240 Country Lane

SIGNATURE 

DATE 10-1-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Kristi Kline
ADDRESS 2341 Wildwood Trail
SIGNATURE Kristi Kline
DATE 10-7-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Colleen Christenson
ADDRESS 9613 Lonsdale Circle Minnetonka, MN
SIGNATURE ~~Colleen~~ Colleen Christenson 55305
DATE 9-30-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Richard and Challis Ronning
ADDRESS 9605 Cimarron Trail
SIGNATURE Challis Ronning
DATE Sept. 30, 2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Carl & Janet Krause
ADDRESS 9604 Lonsdale Cir
SIGNATURE Carl Krause / Janet L Krause
DATE 10/01/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Viivi Ross
ADDRESS 9713 CHARRON CIRCLE, MKA, MN 55305
SIGNATURE Viivi Ross
DATE 9/24/2020

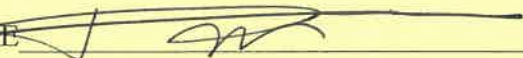
**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Fadumo Ibrahim

ADDRESS 9705 Cimarron Cir Minnetonka MN 55305

SIGNATURE 

DATE 9-30-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Philip Brezicka
ADDRESS 2328 Wildwood Ter
SIGNATURE Philip Brezicka
DATE 9-30-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Fralick
ADDRESS 2208 Country Lane
SIGNATURE D. Fralick
DATE 9/30/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Bev Anderson
ADDRESS 2252 Wildwood Circle, Minnetonka
SIGNATURE *Bev Anderson*
DATE 9/25/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Robert Fishman

ADDRESS 9617 Lansdale Cir Minnetonka, MN 55305

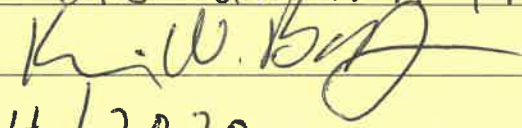
SIGNATURE 

DATE 9/28/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Kevin & Theresa Boskey
ADDRESS 9813 Cimarron Trail
SIGNATURE 
DATE 9/24/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

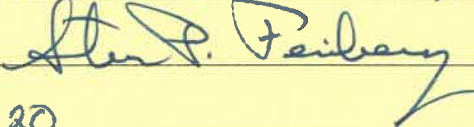
I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Richard T Wolfe
ADDRESS 2248 Country Lane Mtnk, MN 55305
SIGNATURE Richard T Wolfe
DATE 9/29/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME STEVEN PAUL FEINBERG
ADDRESS 9704 CIMARRON CIRCLE, MINNETONKA, MN 55305
SIGNATURE 
DATE 9-30-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Louise D. Dufner
ADDRESS 2229 Country Lane Mtnka 55305
SIGNATURE Louise D. Dufner
DATE 9/30/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME KAE STEWART
ADDRESS 2381 Wildwood Trail Minnetonka, MN 55305
SIGNATURE Kae K. Stewart
DATE 9/28/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

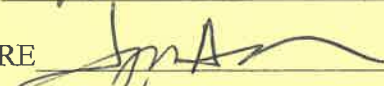
PRINT NAME PATRICIA J. SETTER
ADDRESS 9738 Cimarron Trail, Mtka, MN
SIGNATURE Patricia J. Setter
DATE 9/29/20

~~My only concern is for the very mature evergreen trees which currently provide a barrier between 169 and Preston Trails. I am hopeful a MNDOT barrier would not require the removal of these beautiful trees.~~

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Joyce Arendt
ADDRESS 9701 Cimarron Trail, Minnetonka, MN 55305
SIGNATURE 
DATE 9/28/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

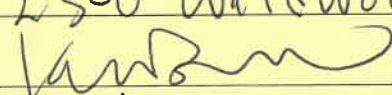
I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Joyce Sharp
ADDRESS 1325 Wildwood Trail, Minnetonka, Mn. 55305
SIGNATURE _____
DATE Sept 24, 2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Karen Birk-Rhodes
ADDRESS 2300 Wildwood Trail
SIGNATURE 
DATE 9/25/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME ELIZABETH J. LEVINE
ADDRESS 2337 WILDWOOD TRAIL
SIGNATURE Elizabeth J. Levine
DATE SEPTEMBER 28 - 2020


**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Yifu Chen

ADDRESS 9720 Cimarron Cir, Minnetonka, MN 55305

SIGNATURE 

DATE 9/27/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME KEVIN R. CARBNER
ADDRESS 9728 CIMARRON TRAIL
SIGNATURE Kevin R. Carbner
DATE 9/25/2007

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME GERILYN GIEL
ADDRESS 9801 Cimarron Tr
SIGNATURE [Signature]
DATE Sept 25, 2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME LYNDA & RALPH MARYEN
ADDRESS 9601 Cimarron Trail
SIGNATURE *Lynnda Maryen*
DATE 9-25-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Charles & Teri Schons
ADDRESS 9604 Cimarron Trl
SIGNATURE [Signature]
DATE 9-24-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME GREGORY CHAPMAN

ADDRESS 2253 COUNTRY LANE

SIGNATURE *Gregory Chapman*

DATE 09-25-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.


I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Thomas E. Youngblood
ADDRESS 2261 Wildwood Circle
SIGNATURE Thomas E. Youngblood
DATE 09/25/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Robert A. Dornath
ADDRESS 2313 W. Howard Trl
SIGNATURE 
DATE 9-26-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Shannon Murphy
ADDRESS 2316 Wildwood Trail
SIGNATURE Shannon Murphy
DATE 9-28-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Elizabeth Gordon - Resident

ADDRESS 9700 Cimarron Circle

SIGNATURE Jane E. Gordon / Jonathan E. Gordon

DATE 9/27/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Amy Teunissen
ADDRESS 9600 Lonsdale Circle - Minnetonka 55305
SIGNATURE Amy S Teunissen
DATE 9-26-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Maureen Hagen
ADDRESS 9705 Cimarron Trl, Minnetonka MN 55305
SIGNATURE Maureen Hagen
DATE 9-20-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Philip + Nancy Mischke
ADDRESS 9716 Cimarron Circle, Minnetonka, MN 55305
SIGNATURE Nancy Mischke
DATE SEP 26, 2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME PATRICIA DINGMANN
ADDRESS 9605 LONSDALE Circle Minnetonka 55305
SIGNATURE Patricia Dingmann
DATE 9/28/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Patrick Tanner
ADDRESS 2333 Wildwood Trail
SIGNATURE [Signature]
DATE 9/28/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME SANDRA M. ANDERSON
ADDRESS 9721 CIMARRON TRAIL, MNITKA 55305
SIGNATURE *Sandra M. Anderson*
DATE 9/28/2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.


I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Elise Wieberthal
ADDRESS 9729 Cimarron Circle, Minnetonka, MN 55305
SIGNATURE Elise Wieberthal
DATE 9/26/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME CODY Voelz
ADDRESS 9600 Cimarron Trail Minnetonka, MN 55305
SIGNATURE 
DATE 9-25-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME DARLENE KRAUSE
ADDRESS 2305 Wildwood TR
SIGNATURE Darlene R. Krause
DATE 9-24-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.


I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME David Gratz
ADDRESS 2244 County Lane, Minnetonka
SIGNATURE David A. Gratz
DATE 9-27-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Sheldon Wolf (for Kari Wolf)
ADDRESS 2336 Wildwood Trail Minnetonka, MN 55305
SIGNATURE 
DATE 9/24/20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME CANDACE FUGERE
ADDRESS 9713 CIMARRON TRAIL
SIGNATURE Candace Fugere
DATE 9-25-2020

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Kirsten Hansen

ADDRESS 9724 Cinnamon Trail, MTKA, MN 55305

SIGNATURE Kirsten Hansen

DATE 9-24-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Barbara Hanlon
ADDRESS 2320 Wildwood Trail Minnetonka, MN
SIGNATURE Barbara Hanlon 55305
DATE 9-25-20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Cheryll Walker
ADDRESS 9717 CIMARRON TRAIL
SIGNATURE Cheryll Walker
DATE 9.27.20

**PRESTON TRAILS HOMEOWNER ASSOCIATION
HWY. 169 SOUND BARRIER PETITION**

Preston Trails Homeowner Association Board of Directors is in the process of preparing an application to MNDOT, the State of Minnesota and the City of Minnetonka for a noise barrier between Highway 169 and Preston Trails land. We believe that we will have a better chance of getting on MNDOT's schedule if we can get all the residents of our community to sign this petition to influence this process.

I WISH TO PETITION MNDOT, THE STATE OF MINNESOTA AND THE CITY OF MINNETONKA TO BUILD A NOISE BARRIER WALL ON THE WEST SIDE OF 169 TO SHIELD PRESTON TRAILS' HOMEOWNERS FROM TRAFFIC NOISE.

PRINT NAME Scott & Janet Rayman
ADDRESS 9721 Cimarron Circle
SIGNATURE Janet Rayman
DATE 10-6-20



**City Council Agenda Item 10B
Meeting of October 4, 2021**

Title: Resolution concerning no parking in the Opus area

Report From: Phil Olson, P.E., City Engineer

Submitted through: Mike Funk, Acting City Manager
Scott Boerboom, Chief of Police
Will Manchester, P.E., Public Works Director
Julie Wischnack, Community Development Director

Action Requested: Motion Informational Public Hearing

Form of Action: Resolution Ordinance Contract/Agreement Other N/A

Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Streets in the Opus area of the city were historically not intended to allow parking and the majority of streets are not formally designated as no parking zones. On-street parking issues are occurring more frequently in several areas of Opus and posting no parking in this area is necessary to maintain traffic flow and safety.

Recommended Action

Adopt the resolution designating streets within the Opus area as “No Parking” zones.

Strategic Profile Relatability

- | | |
|---|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The designation of permanent “No Parking” zones within the Opus area will provide and preserve a quality, local street system for users.

Financial Consideration

- Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Background

The Opus area, located south of Smetana Drive, east of Shady Oak Road, west of Trunk Highway 169 and north of Highway 62, is comprised of a unique network of primarily one-way streets serving both residential and commercial properties. The area does support two-way streets, however is limited to; Feltl Road, Smetana Road, Smetana Drive, Smetana Court and Opportunity Court. The system is heavily used with average daily traffic count volumes of up to 8,200 vehicles per day.

Due to the street design widths of the Opus area, streets were not historically intended to safely allow for parking. However, with the exception of a few cases, there has not been a need to formally prohibit parking. In recent years, new housing combined with the multiyear construction of the Southwest Light Rail Transit (SWLRT) project have introduced new motorists to the area and the city has experienced an increase in parking issues and safety concerns related to on-street parking. These issues are anticipated to increase as redevelopment continues and based on the staff's review of the area, off-street parking is readily available. Further, future redevelopment reviews will require this off-street parking availability to remain.

To address the parking concerns, below is a listing of streets recommended for a "No Parking" zone. The recommendation includes the future street alignments on Yellow Circle Drive and Red Circle Drive that are currently being constructed as part of the SWLRT project. Additionally, the resolution includes reaffirming several existing permanent "No Parking" zones that were established in the 1980s and 1990s. These areas are portions of Smetana Road, Smetana Drive and Opportunity Court.

- Both sides of Bren Road East
- Both sides of Bren Road West
- Both sides of Feltl Road
- Both sides of Opportunity Court
- Both sides of Opus Parkway
- Both sides of Red Circle Drive, present and post light rail alignment
- Both sides of Blue Circle Drive
- Both sides of Yellow Circle Drive, present and post light rail alignment
- Both sides of Green Circle Drive
- Both sides of Green Oak Drive
- Both sides of Smetana Court
- Both sides of Smetana Drive
- Both sides of Smetana Road, within city limits

Staff is planning to begin installing "No Parking" signage as needed to help control the current parking issues. This will limit the number of signs initially, and signage will continue to be added in the future as new developments occur and traffic patterns change with the future opening of the SWLRT project.

Resolution No. 2021-XXX

Resolution authorizing “No Parking” zones and the installation of “No Parking” signs throughout the Opus area

Be it Resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

1.01. Through staff recommendation, a no parking zone is requested at the following locations:

- a. Both sides of Bren Road East
- b. Both sides of Bren Road West
- c. Both sides of Feltl Road
- d. Both sides of Opportunity Court
- e. Both sides of Opus Parkway
- f. Both sides of Red Circle Drive, present and post southwest light rail alignment
- g. Both sides of Blue Circle Drive
- h. Both sides of Yellow Circle Drive, present and post southwest light rail alignment
- i. Both sides of Green Circle Drive
- j. Both sides of Green Oak Drive
- k. Both sides of Smetana Court
- l. Both sides of Smetana Drive
- m. Both sides of Smetana Road, within city limits

Section 2. Council Action.

2.01. The request and recommendation is hereby received and the City Council does authorize the installation of “No Parking” signs at the following location:

- a. Both sides of Bren Road East
- b. Both sides of Bren Road West
- c. Both sides of Feltl Road
- d. Both sides of Opportunity Court
- e. Both sides of Opus Parkway
- f. Both sides of Red Circle Drive, present and post southwest light rail alignment
- g. Both sides of Blue Circle Drive
- h. Both sides of Yellow Circle Drive, present and post southwest light rail alignment
- i. Both sides of Green Circle Drive
- j. Both sides of Green Oak Drive
- k. Both sides of Smetana Court
- l. Both sides of Smetana Drive
- m. Both sides of Smetana Road within city limits

Adopted by the City Council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

ACTION ON THIS RESOLUTION:

Motion for adoption:

Seconded by:

Voted in favor of:

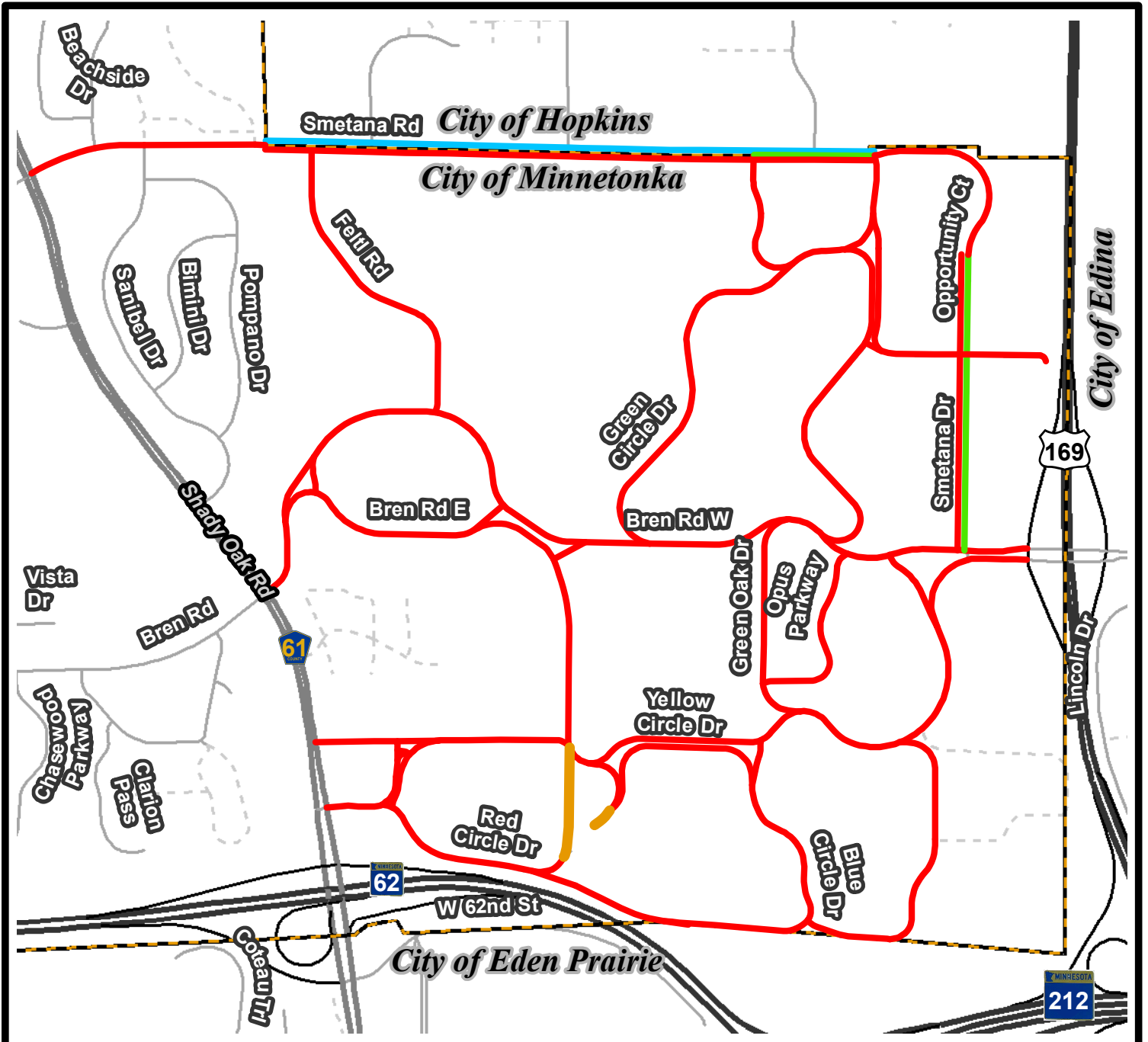
Voted against:

Abstained:

Absent:

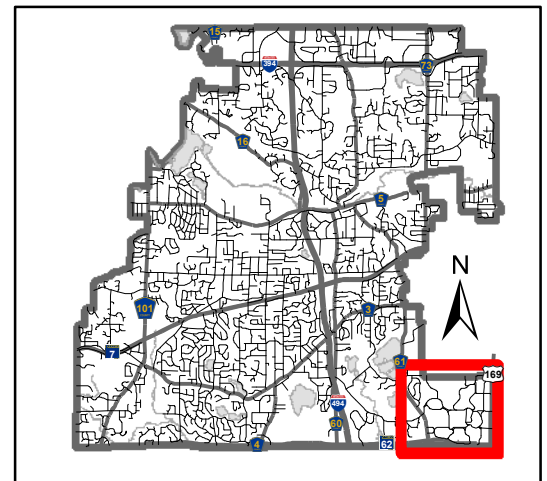
I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk



Opus Area Parking Restrictions

- Hopkins Existing No Parking
- Minnetonka Existing No Parking
- Minnetonka Proposed No Parking
- Minnetonka Proposed No Parking-Post SWLRT Alignment



This map is for illustrative purposes only.



**City Council Agenda Item 10C
Meeting of October 4, 2021**

Title: Agreement for Hennepin County Healthy Tree Canopy Grant
Report From: Leslie Yetka, Natural Resources Manager
Submitted through: Mike Funk, Acting City Manager
Will Manchester, P.E., Public Works Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Natural Resources staff have received a \$20,700 Healthy Tree Canopy Grant through Hennepin County to fund emerald ash borer (EAB) management, education and tree planting projects on city-owned land in three parks and five outlot parcels. Emerald ash borer management activities are designed to slow the spread of ash tree mortality in Minnetonka.

Recommended Action

Authorize the mayor and city manager to execute the Healthy Tree Canopy Grant in the amount of \$20,700 with Hennepin County, subject to non-material changes as approved by the natural resources manager and city attorney.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input checked="" type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: The Healthy Tree Canopy Grant helps to mitigate threats to ecosystems and the urban forest, which is a key strategy identified in the 2021 Strategic Profile.

Financial Consideration

Is there a financial consideration? No Yes \$6,900
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: The city will provide a financial match of \$6,900 over the life of the grant to fund EAB management activities. The match is budgeted as part of the ongoing operational expenses of the Natural Resource Division forestry program.

Background

The Natural Resources Department applied for the Health Tree Canopy Grant and received notice in August that funding was received. The grant program funds emerald ash borer (EAB) management, education and tree planting projects on city-owned land and is designed to slow the spread of ash tree mortality in Minnetonka. The educational component of the grant is intended to encourage residents to be proactive in managing the impacts of EAB on their properties. Further, the city's tree planting projects will replace lost canopy due to EAB and, by highlighting staff's efforts, will demonstrate to the community that the city is leading by example. The city attorney has reviewed the agreement.

The funds received will be used to carry out a Slow Ash Mortality (SLAM) project to fight EAB and educate the public on its methods in two distinct project areas. The two areas that were selected are the Westwood and Glen Lake neighborhoods. These neighborhoods are currently the most heavily impacted by EAB and have experienced substantial tree loss. This proposed project would restore urban tree cover on public landscapes while providing education to city residents on how to better prepare for EAB by reducing the environmental, aesthetic and economic costs associated with EAB.

Through the SLAM project, all EAB infested ash with over 50% die back will be removed. In addition, 20% of the total ash population will be injected with the insecticide Emamectin Benzoate within these areas to achieve "herd immunity" by reducing feeding space and killing any EAB that feed on the injected trees. Following the removals and injections, the city will carry out three separate volunteer planting events on public property and plant up to 100 trees from Hennepin County's approved planting list. The use of AutoCad software will assist in designs of the areas. Natural resources staff will work with the city's communications division to promote the educational components of these events. The city is also proposing to build a gravel bed nursery from Minnetonka sourced ash timber and obtaining 100 bare root trees for the newly built gravel bed nursery. Finally, following the work, the city will work with a professional company to design educational kiosks for parks to educate the public on EAB management techniques. The kiosks will be built using reclaimed lumber from ash trees milled with the city's portable saw mill.

The goal of this project is for the public to better understand the importance of preparing for EAB and to take action against it, as well as slowing the spread of EAB in the most heavily infested areas of Minnetonka. If this occurs, the city will benefit by stunting the exponential growth of EAB.

GRANT AGREEMENT

This Agreement is between the COUNTY OF HENNEPIN, STATE OF MINNESOTA, A-2300 Government Center, Minneapolis, Minnesota 55487, on behalf of the Hennepin County Environment and Energy Department, 701 South Fourth Avenue, Suite 700, Minneapolis, Minnesota 55415 (“COUNTY”), and City of Minnetonka, 11522 Minnetonka Blvd, Minnetonka, MN 55305 (“GRANTEE”).

The parties agree as follows:

1. TERM AND AMOUNT OF GRANT

GRANTEE shall complete all grant requirements (“Grant Requirements”), if any, commencing September 15, 2021 and expiring December 1, 2022, unless cancelled or terminated earlier in accordance with the provisions herein.

The total amount of this grant, including all reimbursable expenses, is forty-four thousand six hundred sixty dollars (\$20,700) (“Grant Funds”).

2. GRANT REQUIREMENTS

The GRANTEE shall operate its healthy tree canopy grant project (“Project”), including the proposed Project budget, as described in the application submitted by the GRANTEE and kept on file with the COUNTY.

GRANTEE shall plant one hundred twenty trees, treat ash trees, build a gravelbed nursery, and create educational kiosks in three city parks and five city owned outlots. See attachment A for details regarding the project scope.

The GRANTEE shall provide twenty-five percentage matching funds as described in the project budget and project requirements, as well as provide proof of matching funds before reimbursement. See attachment B for budget details.

Submit to the DEPARTMENT in a format acceptable to the COUNTY a final report by December 1, 2022.

3. GRANT DISBURSEMENT

COUNTY shall pay Grant Funds directly to GRANTEE after completion of the Grant Requirements, if any, and upon the presentation of a claim as provided by law governing COUNTY's payment of claims and/or invoices. GRANTEE shall submit invoices quarterly on forms which may be furnished by COUNTY. Payment shall be made within thirty-five (35) days from receipt of the invoice.

The COUNTY shall pay all Tree Grant Funds once work is completed to the GRANTEE valued not-to-exceed \$20,700. Reimbursable expenses are limited to budget line items. Any reimbursable expense which exceeds twenty thousand seven hundred dollars (\$20,700) shall receive prior written approval from the Contract Administrator.

GRANTEE shall not provide services under this Agreement without receiving a purchase order or purchase order number supplied by COUNTY. All invoices shall display a Hennepin County purchase order number and be sent to the central invoice receiving address supplied by COUNTY.

4. INDEPENDENT CONTRACTOR

GRANTEE shall select the means, method, and manner of performing Grant Requirements, if any. Nothing is intended nor should be construed as creating or establishing the relationship of a partnership or a joint venture between the parties or as constituting GRANTEE as the agent, representative, or employee of COUNTY for any purpose. GRANTEE is and shall remain an independent contractor under this Agreement. GRANTEE shall secure at its own expense all personnel required in completing Grant Requirements, if any, under this Agreement. GRANTEE's personnel and/or subcontractors engaged to perform any work required by this Agreement will have no contractual relationship with COUNTY and will not be considered employees of COUNTY. COUNTY shall not be responsible for any claims related to or on behalf of any of GRANTEE's personnel, including without limitation, claims that arise out of employment or alleged employment under the Minnesota Unemployment Insurance Law (Minnesota Statutes Chapter 268) or the Minnesota Workers' Compensation Act (Minnesota Statutes Chapter 176) or claims of discrimination arising out of state, local or federal law, against GRANTEE, its officers, agents, contractors, or employees. Such personnel or other persons shall neither accrue nor be entitled to any compensation, rights, or benefits of any kind from COUNTY, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, workers' compensation, unemployment compensation, disability, severance pay, and retirement benefits.

5. NON-DISCRIMINATION

- A. In accordance with COUNTY's policies against discrimination, GRANTEE shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class, including but not limited to race, color, creed, religion, national origin, sex, gender expression, gender identity, age, disability, marital status, sexual orientation, or public assistance status. No person who is protected by applicable law against discrimination shall be subjected to discrimination.
- B. COUNTY encourages GRANTEE to develop and implement a policy promoting diversity, equity, and inclusion in GRANTEE's workplace.

6. INDEMNIFICATION

GRANTEE shall defend, indemnify, and hold harmless COUNTY, its present and former officials, officers, agents, volunteers and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including attorney's fees, resulting directly or indirectly from any act or omission of GRANTEE, a subcontractor, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable in the performance of this Agreement, and against all loss by reason of the failure of GRANTEE to perform any obligation under this Agreement. For clarification and not limitation, this obligation to defend, indemnify and hold harmless includes but is not limited to any liability, claims or actions resulting directly or indirectly from alleged infringement of any copyright or any property right of another, the employment or alleged employment of GRANTEE personnel, the unlawful disclosure and/or use of protected data, or other noncompliance with the requirements of these provisions.

7. INSURANCE

GRANTEE shall purchase insurance or utilize a self-insurance program sufficient to cover the maximum level of Minnesota tort liability limits under Minnesota Statute, Chapter 466.

8. DUTY TO NOTIFY

GRANTEE shall promptly notify COUNTY of any demand, claim, action, cause of action or litigation brought against GRANTEE, its employees, officers, agents or subcontractors, which arises out of this Agreement. GRANTEE shall also notify COUNTY whenever GRANTEE has a reasonable basis for believing that GRANTEE and/or its employees, officers, agents or subcontractors, and/or COUNTY, might become the subject of a demand, claim, action, cause of action, administrative action, criminal arrest, criminal charge or litigation arising out of this Agreement.

9. DATA PRIVACY AND SECURITY

A. GRANTEE, its officers, agents, owners, partners, employees, volunteers and subcontractors shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13 (MGDPA) and all other applicable state and federal laws, rules, regulations and orders relating to data or the privacy, confidentiality or security of data, which may include but is not limited to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (HIPAA). For clarification and not limitation, COUNTY hereby notifies GRANTEE that the requirements of Minnesota Statutes section 13.05, subd. 11, apply to this Agreement. GRANTEE shall promptly notify COUNTY if GRANTEE becomes aware of any potential claims, or facts giving rise to such claims, under the

MGDPA or other data, data security, privacy or confidentiality laws, and shall also comply with the other requirements of this Section.

Classification of data, including trade secret data, will be determined pursuant to applicable law and, accordingly, merely labeling data as “trade secret” by GRANTEE does not necessarily make the data protected as such under any applicable law.

- B. In addition to the foregoing MGDPA and other applicable law obligations, GRANTEE shall comply with the following duties and obligations regarding County Data and County Systems (as each term is defined herein). As used herein, “County Data” means any data or information, and any copies thereof, created by GRANTEE or acquired by GRANTEE from or through COUNTY pursuant to this Agreement, including but not limited to handwriting, typewriting, printing, photocopying, photographing, facsimile transmitting, and every other means of recording any form of communication or representation, including electronic media, email, letters, works, pictures, drawings, sounds, videos, or symbols, or combinations thereof.

If GRANTEE has access to or possession/control of County Data, GRANTEE shall safeguard and protect the County Data in accordance with generally accepted industry standards, all laws, and all then applicable COUNTY policies, procedures, rules and directions. To the extent of any inconsistency between accepted industry standards and such COUNTY policies, procedures, rules and directions, GRANTEE shall notify COUNTY of the inconsistency and follow COUNTY direction. GRANTEE shall immediately notify COUNTY of any known or suspected security breach or unauthorized access to County Data, then comply with all responsive directions provided by COUNTY. The foregoing shall not be construed as eliminating, limiting or otherwise modifying GRANTEE’s indemnification obligations herein.

- C. Upon expiration, cancellation or termination of this Agreement:

- (1) At the discretion of COUNTY and as specified in writing by the Contract Administrator, GRANTEE shall deliver to the Contract Administrator all County Data so specified by COUNTY.
- (2) COUNTY shall have full ownership and control of all such County Data. If COUNTY permits GRANTEE to retain copies of the County Data, GRANTEE shall not, without the prior written consent of COUNTY or unless required by law, use any of the County Data for any purpose or in any manner whatsoever; shall not assign, license, loan, sell, copyright, patent and/or transfer any or all of such County Data; and shall not do anything which in the opinion of COUNTY would affect COUNTY’s ownership and/or control of such County Data.

- (3) Except to the extent required by law or as agreed to by COUNTY, GRANTEE shall not retain any County Data that are confidential, protected, privileged, not public, nonpublic, or private, as those classifications are determined pursuant to applicable law. In addition, GRANTEE shall, upon COUNTY's request, certify destruction of any County Data so specified by COUNTY.

- D. The parties acknowledge that GRANTEE is a government entity subject to the MGDPA and Minnesota Statutes 15.17 and 138.17. This section 9 shall not be interpreted or enforced in any manner that would cause either party to violate its obligations under those statutes.

10. RECORDS – AVAILABILITY/ACCESS

Subject to the requirements of Minnesota Statutes section 16C.05, subd. 5, COUNTY, the State Auditor, or any of their authorized representatives, at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of GRANTEE and involve transactions relating to this Agreement. GRANTEE shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

11. SUCCESSORS, SUBCONTRACTING AND ASSIGNMENTS

- A. GRANTEE binds itself, its partners, successors, assigns and legal representatives to COUNTY for all covenants, agreements and obligations herein.
- B. GRANTEE shall not assign, transfer or pledge this Agreement whether in whole or in part, nor assign any monies due or to become due to it without the prior written consent of COUNTY. A consent to assign shall be subject to such conditions and provisions as COUNTY may deem necessary, accomplished by execution of a form prepared by COUNTY and signed by GRANTEE, the assignee and COUNTY. Permission to assign, however, shall under no circumstances relieve GRANTEE of its liabilities and obligations under the Agreement.
- C. GRANTEE shall not subcontract this Agreement whether in whole or in part, without the prior written consent of COUNTY. Permission to subcontract, however, shall under no circumstances relieve GRANTEE of its liabilities and obligations under the Agreement. Further, GRANTEE shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of any specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between GRANTEE and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. GRANTEE shall make contracts between GRANTEE and

subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by COUNTY to a contract between GRANTEE and a subcontractor, or a waiver or release by COUNTY of GRANTEE's full compliance with the requirements of this Section: (1) COUNTY's request or lack of request for contracts between GRANTEE and subcontractors; (2) COUNTY's review, extent of review or lack of review of any such contracts; or (3) COUNTY's statements or actions or omissions regarding such contracts.

- D. As required by Minnesota Statutes section 471.425, subd. 4a, GRANTEE shall pay any subcontractor within ten (10) days of GRANTEE's receipt of payment from COUNTY for undisputed services provided by the subcontractor, and GRANTEE shall comply with all other provisions of that statute.

12. MERGER, MODIFICATION AND SEVERABILITY

- A. The entire Agreement between the parties is contained herein and supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items that are referenced or that are attached are incorporated and made a part of this Agreement. If there is any conflict between the terms of this Agreement and referenced or attached items, the terms of this Agreement shall prevail.

GRANTEE and/or COUNTY are each bound by its own electronic signature(s) on this Agreement, and each agrees and accepts the electronic signature of the other party.

- B. Any alterations, variations or modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties. Except as expressly provided, the substantive legal terms contained in this Agreement including but not limited to Indemnification, Insurance, Merger, Modification and Severability, Default and Cancellation/Termination or Minnesota Law Governs may not be altered, varied, modified or waived by any change order, implementation plan, scope of work, development specification or other development process or document.
- C. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will not be affected.

13. DEFAULT AND CANCELLATION/TERMINATION

- A. If GRANTEE fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default. Unless GRANTEE's default is excused in writing by COUNTY, COUNTY may upon written notice immediately cancel or terminate

this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for COUNTY to delay payment until GRANTEE's compliance. In the event of a decision to withhold payment, COUNTY shall furnish prior written notice to GRANTEE.

- B. Notwithstanding any provision of this Agreement to the contrary, GRANTEE shall remain liable to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by GRANTEE. Upon notice to GRANTEE of the claimed breach and the amount of the claimed damage, COUNTY may withhold any payments to GRANTEE for the purpose of set-off until such time as the exact amount of damages due COUNTY from GRANTEE is determined. Following notice from COUNTY of the claimed breach and damage, GRANTEE and COUNTY shall attempt to resolve the dispute in good faith.
- C. The above remedies shall be in addition to any other right or remedy available to COUNTY under this Agreement, law, statute, rule, and/or equity.
- D. COUNTY's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.
- E. This Agreement may be canceled/terminated with or without cause by COUNTY upon thirty (30) days' written notice.
- F. If this Agreement expires or is cancelled or terminated, with or without cause, by either party, at any time, GRANTEE shall not be entitled to any payment, fees or other monies except for payments duly invoiced for then-delivered and accepted deliverables/milestones pursuant to this Agreement. In the event GRANTEE has performed work toward a deliverable that COUNTY has not accepted at the time of expiration, cancellation or termination, GRANTEE shall not be entitled to any payment for said work including but not limited to incurred costs of performance, termination expenses, profit on the work performed, other costs founded on termination for convenience theories or any other payments, fees, costs or expenses not expressly set forth in this Agreement.
- G. GRANTEE has an affirmative obligation, upon written notice by COUNTY that this Agreement may be suspended or cancelled/terminated, to follow reasonable directions by COUNTY, or absent directions by COUNTY, to exercise a fiduciary obligation to COUNTY, before incurring or making further costs, expenses, obligations or encumbrances arising out of or related to this Agreement.

14. SURVIVAL OF PROVISIONS

Provisions that by their nature are intended to survive the term, cancellation or termination of this Agreement do survive such term, cancellation or termination. Such provisions include but are not limited to: SERVICES TO BE PROVIDED GRANT REQUIREMENTS; INDEPENDENT CONTRACTOR; INDEMNIFICATION; INSURANCE; DUTY TO NOTIFY; DATA PRIVACY AND SECURITY; RECORDS-AVAILABILITY/ACCESS; DEFAULT AND CANCELLATION/TERMINATION; MEDIA OUTREACH; and MINNESOTA LAW GOVERNS.

15. GRANT ADMINISTRATION

In order to coordinate the services of GRANTEE with the activities of the Hennepin County Department of Environment and Energy so as to accomplish the purposes of this Agreement, Jennifer Kullgren, senior environmentalist, who can be contacted at (612) 596-1175 at Jen.Kullgren@Hennepin.us or successor (Contract Administrator), shall manage this Agreement on behalf of the COUNTY and serve as liaison between the COUNTY and GRANTEE.

Josh Obermeyer, who can be contacted at 952-988-8421 and jobermeyer@minnetonkamn.gov, shall manage the agreement on behalf of GRANTEE. GRANTEE may replace such person but shall immediately give written notice to COUNTY of the name, phone number and email/fax number (if available) of such substitute person and of any other subsequent substitute person.

16. COMPLIANCE AND NON-DEBARMENT CERTIFICATION

- A. GRANTEE shall comply with all applicable federal, state and local statutes, funding sources, regulations, rules and ordinances currently in force or later enacted.
- B. GRANTEE certifies that it is not prohibited from doing business with either the federal government or the state of Minnesota as a result of debarment or suspension proceedings.

17. RECYCLING

COUNTY encourages GRANTEE to establish a recycling program for at least three materials, such as newsprint, office paper, glass, plastic, and metal.

18. NOTICES

Unless the parties otherwise agree in writing, any notice or demand which must be given or made by a party under this Agreement or any statute or ordinance shall be in writing, and shall be sent registered or certified mail. Notices to COUNTY shall be sent to the County Administrator with a copy to the originating COUNTY department at the address given in the opening paragraph of this Agreement. Notice to GRANTEE shall be sent to

the address stated in the opening paragraph of this Agreement or to the address stated in GRANTEE's Form W-9 provided to COUNTY.

19. CONFLICT OF INTEREST

GRANTEE affirms that to the best of GRANTEE's knowledge, GRANTEE's involvement in this Agreement does not result in a conflict of interest with any party or entity which may be affected by the terms of this Agreement. Should any conflict or potential conflict of interest become known to GRANTEE, GRANTEE shall immediately notify COUNTY of the conflict or potential conflict, specifying the part of this Agreement giving rise to the conflict or potential conflict, and advise COUNTY whether GRANTEE will or will not resign from the other engagement or representation. Unless waived by COUNTY, a conflict or potential conflict may, in COUNTY's discretion, be cause for cancellation or termination of this Agreement.

20. MEDIA OUTREACH

GRANTEE shall notify COUNTY, prior to publication, release or occurrence of any Outreach (as defined below). The parties shall coordinate to produce collaborative and mutually acceptable Outreach. For clarification and not limitation, all Outreach shall be approved by COUNTY, by and through the Public Relations Officer or his/her designee(s), prior to publication or release. As used herein, the term "Outreach" shall mean all media, social media, news releases, external facing communications, advertising, marketing, promotions, client lists, civic/community events or opportunities and/or other forms of outreach created by, or on behalf of, GRANTEE that directly or indirectly relate to, reference or concern this Agreement or the Grant Requirements performed hereunder.

21. MINNESOTA LAWS GOVERN

The laws of the state of Minnesota shall govern all questions and interpretations concerning the validity and construction of this Agreement and the legal relations between the parties and their performance. The appropriate venue and jurisdiction for any litigation will be those courts located within the County of Hennepin, state of Minnesota. Litigation, however, in the federal courts involving the parties will be in the appropriate federal court within the state of Minnesota.

THIS PORTION OF PAGE INTENTIONALLY LEFT BLANK

COUNTY ADMINISTRATOR APPROVAL

Reviewed for COUNTY by
the County Attorney's Office:

COUNTY OF HENNEPIN
STATE OF MINNESOTA

{ {Sig_es_:signer3:signature} }
{ {userstamp3_es_:signer3:stamp} }

By:

{ {Sig_es_:signer5:signature} }
{ {userstamp5_es_:signer5:stamp} }

Reviewed for COUNTY by:

{ {Sig_es_:signer4:signature} }
{ {userstamp4_es_:signer4:stamp} }

Document Assembled by:

{ {Sig_es_:signer1:signature} }
{ {userstamp1_es_:signer1:stamp} }

{ {Exh_es_:signer1:attachment:label("Attachments")} }

GRANTEE

GRANTEE warrants that the person who executed this Agreement is authorized to do so on behalf of GRANTEE as required by applicable articles, bylaws, resolutions or ordinances.*

By:

{{Sig_es_:signer2:signature}}

{{userstamp2_es_:signer2:stamp}}

{{ ttl_es_:signer2:title}}

By:

{{Sig_es_:signer3:signature}}

{{userstamp3_es_:signer3:stamp}}

{{ ttl_es_:signer3:title}}

*GRANTEE represents and warrants that it has submitted to COUNTY all applicable documentation (articles, bylaws, resolutions or ordinances) that confirms the signatory's delegation of authority. Documentation is not required for a sole proprietorship.

.



**City Council Agenda Item 10D
Meeting of October 4, 2021**

Title: Resolution opening a portion of Oric Avenue
Report From: Darin Ellingson, Streets and Parks Operations Manager
Submitted through: Geralyn Barone, City Manager
Will Manchester, P.E., Public Works Director
Corrine Heine, City Attorney

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Residents in the Lake Rose area have requested that the city open a footpath access to Lake Rose Park through an unopened segment of Oric Avenue.

Recommended Action

Adopt a resolution opening the south 15 feet of Oric Avenue right-of-way, lying west of Lake Rose Drive, to public pedestrian travel.

Strategic Profile Relatability

- | | |
|---|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

Statement: Opening the segment of Oric Avenue to public pedestrian travel will provide pedestrian access to Lake Rose Park.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: The opened right of way will require minimal maintenance, with insignificant expenditure of public funds.

Background

For many years neighborhood residents have used a dirt footpath near the north property line of 5700 Lake Rose Dr to access the north side of Lake Rose Park, which is in an unused right of way for Oric Avenue. In 2018 a tree fell in the right of way area, and after research by city staff, it was determined that the city had not opened the right of way to public travel, either formally or informally, and therefore the underlying property owner at 5700 Lake Rose Dr. was responsible for the tree removal.

When the property owner learned that the footpath was not a public trail and that she was responsible for the unopened right of way, she became concerned about potential liability and blocked the footpath. As a result, residents in the area contacted the city, requesting the city to open the segment of Oric Avenue as a public footpath, to provide access to Lake Rose Park.

The Park Board considered the matter at its September 1, 2021 meeting and recommended that the segment of Oric Avenue west of Lake Rose Drive be opened as a public footpath.

Property rights in dedicated streets

Oric Avenue was dedicated to the public as right of way in 1974, in the plat of Lake Rose Estates. The plat included the extension of Oric Avenue from Lake Rose Dr. to the west edge of the plat. A street was never built in that segment, and the right of way has not been used or maintained by the city. A portion of the plat of Lake Rose Estates is shown on the attached document, with the unused right of way highlighted in yellow. When a right of way area is not developed, used, or maintained by the city it is called “unopened” right of way.

The owners of a platted lot typically own not only their lot but also own the land to the center of each street that abuts the lot. For lots that abut streets located on the edge of a plat (where there is no lot on the opposite side of the street and in the same plat), the ownership of the street extends to the edge of the plat, rather than the center of the street. For example, in the aerial photo in the attached document the properties of 5700, 5708, 5701, and 5705 own the respective portions of property to the center of Lake Rose Dr (underlying property), however the right of way area is an easement given to the city for roadway purposes. The property lines of 5700 Lake Rose Dr are highlighted in blue and the other properties in white in the aerial photo.

Although a lot owner may own the land underlying a dedicated street, the ownership is subject to the public’s right to use the right of way. When a right of way is unopened, the owner of that land may make any use of the land that will not prevent its future use for right of way purposes and is responsible for the upkeep and maintenance of the unopened right of way. Once the right of way is opened, the city becomes responsible for the public improvements in the right of way. Unless an unused right of way is vacated, the city has the ability to open an unused right of way at any time.

For the unused right of way highlighted in yellow, 5700 Lake Rose Dr is the underlying property owner of the entire area. 15520 and 15530 do not own any portion of Oric Avenue because their lots were created in a different plat (Lake Rose Park, 1909), not in the Lake Rose Estates plat.

Driveway permit and segment to be opened

The city charter allows the city to allow private use of unopened public rights of way. In 1998, the city granted a private driveway permit for 15530 Oric Avenue, to allow a driveway to be constructed in the unopened right of way for Oric Avenue. The permit is for the north 20 feet of

right of way, but the driveway actually extends further than the north 20 feet. The permit requires the owner of 15530 Oric Avenue to be responsible for tree removal within the permit area.

There is an embankment within the north 35 feet of unopened Oric Avenue, and as a result the footpath is located only within the south 15 feet of unopened Oric Avenue. To prevent any conflict between the public path and the private driveway, staff proposes that only the south 15 feet of Oric Avenue be opened to allow public access to the park.

Discussions with owner of 5700 Lake Rose Dr.

At its September 1 meeting, the Park Board requested staff to address the concerns of the owner of 5700 Lake Rose Dr., Kris O'Reilly. On September 15, 2021 Leslie Yetka, Natural Resources Manager, Sara Woeste, Assistant Recreation Director, and Darin Ellingson met with Ms. O'Reilly to further address her concerns about the opening of the right of way. Her concerns included liability for tree removal and preventing public travel on her private lot. The proposed resolution specifically addresses those concerns.

Additional concerns brought to the city regarding opening the right of way are addressed below:

- There would be no changes made to the right of way area; the existing dirt footpath would remain as it is for residents to access the park. As with any dirt footpath in the city, the city does not perform active maintenance on a dirt footpath. However, the city would address safety concerns as needed such as a sinkhole, deep washout, or being blocked by a fallen tree or overgrown vegetation. The footpath is on level ground and very little to no future maintenance is anticipated for the path.
- There are no plans to convert the footpath to a formal city trail (8' wide gravel or asphalt maintained trail), but the proposed resolution does not preclude the city council from approving improvement in the future, if the council deems the improvements to be appropriate. Lake Rose Park/Oric Ave has not been identified in the city's Trail Improvement Plan for a future trail. Some area residents use this footpath to get to other neighborhoods without having to walk on Excelsior Blvd. The Trail Improvement Plan has identified a need for a trail along Excelsior Blvd and a trail is anticipated to be built between 2027 and 2030, which will likely lessen the amount of use on the footpath.
- There is a combination of hedge and split rail fence currently providing a barrier between the footpath and the yard of 5700, which would remain. The hedge and fence are the property of 5700 Lake Rose Dr. The fence is located south of the property line, and city staff would relocate the fence to be on the property line. The city would furnish and install approximately 50 feet of additional fence to extend the barrier. City staff would also relocate the westerly portion of the homeowner's fence to the west property line. The resolution conditions those actions upon Ms. O'Reilly's agreement to own, maintain, repair and replace the fence in the future. She is not required to replace the fence, but if the fence is replaced, it is responsibility of the owner of 5700 Lake Rose Dr.
- The trees in the right of way have been inspected by the city forester and there are no trees that pose an immediate or future risk to the footpath. The hill from the footpath to the driveway for 15530 was inspected for erosion and no erosion issues were observed which would impact the roots of the trees. There is an asphalt curb along the south edge of the driveway that diverts water to Oric Ave which reduces the risk of erosion on the hill.

Resolution No. 2021-___

**Resolution opening the south 15 feet of Oric Avenue right-of-way,
lying west of Lake Rose Drive, to public pedestrian travel**

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. Oric Avenue is dedicated as a public way in the plat of LAKE ROSE ESTATES, recorded in the Hennepin County Registrar of Titles office since 1974. It is 50 feet in width.
- 1.02. The portion of Oric Avenue that lies westerly of the northerly extension of the west line of Lake Rose Drive, as dedicated in the plat of LAKE ROSE ESTATES, has not been opened to public travel.
- 1.03. Pursuant to the city charter and city ordinances, the city has granted a permit for a private driveway over the north 20 feet of Oric Avenue, lying west of Lake Rose Drive, by Document No. 7010892, files of the Hennepin County Recorder. A portion of the driveway is located outside the permitted area, within the north 35 feet of Oric Avenue.
- 1.04. For purposes of this resolution, the "Oric Avenue segment" refers to the south 15 feet of that part of Oric Avenue as dedicated in the plat of LAKE ROSE ESTATES, which lies westerly of the northerly extension of the west line of Lake Rose Drive, as dedicated in the plat of LAKE ROSE ESTATES.
- 1.05. Although the Oric Avenue segment has not been formally opened to public travel, members of the public have used the Oric Avenue segment as a means of pedestrian access to Lake Rose Park, which lies westerly of the Oric Avenue segment.
- 1.06. The underlying owner of the Oric Avenue segment is Kristine O'Reilly, the owner of Lot 1, Block 4, LAKE ROSE ESTATES, located at 5700 Lake Rose Drive ("Lot 1").
- 1.07. Residents in the area of the Oric Avenue segment have requested that the city formally open the Oric Avenue segment to public foot travel. Ms. O'Reilly does not object to the opening of the Oric Avenue segment, provided her property is protected from intrusion and damage by either members of the public or city maintenance vehicles.
- 1.08. The Park Board has recommended that the Oric Avenue segment be opened to public pedestrian travel.

Section 2. Council Action.

- 2.01. The city council approves the opening of the Oric Avenue segment to the public as an informal walking path. Unless otherwise approved by the city council in the future, the access is limited to an informal walking path, and will not be established as an improved trail.

- 2.02. City maintenance will be limited to pruning brush and removing hazardous conditions as needed, including the removal of trees that present a hazard to members of the traveling public or to adjacent properties. The city is responsible for the cost of such maintenance for the Oric Avenue segment and for the remaining unopened portion of Oric Avenue, unless otherwise provided in a permit for private driveway. City staff is authorized to prune trees, bushes or other vegetation that is located on adjacent properties, to the extent that the trees, bushes or vegetation intrude into the Oric Avenue segment and, in the staff's judgment, present a hazard to the traveling public.
- 2.03. The city staff is authorized to erect appropriate signage near the easterly entrance of the Oric Avenue segment, indicating access to Lake Rose Park.
- 2.04. The city staff is authorized to relocate the private rail fence that is located on Lot 1 to the north property line of Lot 1, as a physical demarcation of the southerly boundary of the Oric Avenue segment. The city staff is further authorized, at city cost, to erect similar fencing along the remainder of the property line that divides Lot 1 and the Oric Avenue segment, on the condition that the owner of Lot 1 agrees to allow the erection of the fencing on Lot 1 and agrees to be responsible for the future maintenance, repair and replacement of the fencing.
- 2.05. The city staff is directed to provide the owner of Lot 1 with two "private property" signs and to erect them in the locations that the owner indicates, on the condition that the owner of Lot 1 accepts ownership of the signs and agrees to be responsible for the maintenance, repair and replacement of the signs in the future.
- 2.06. Sections 2.01, 2.02, 2.03 and 2.08 of this resolution are effective upon adoption.
- 2.07. Sections 2.04 and 2.05 of this resolution are effective upon the acceptance of this resolution by Kristine O'Reilly, as owner of Lot 1.
- 2.08. The city clerk is directed to record a copy of this resolution with the Hennepin County Registrar of Titles Office.

Adopted by the City Council of the City of Minnetonka, Minnesota, on [_____].

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Acceptance

I hereby accept the preceding provisions of this Resolution.

Dated: _____

Kristine O'Reilly

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

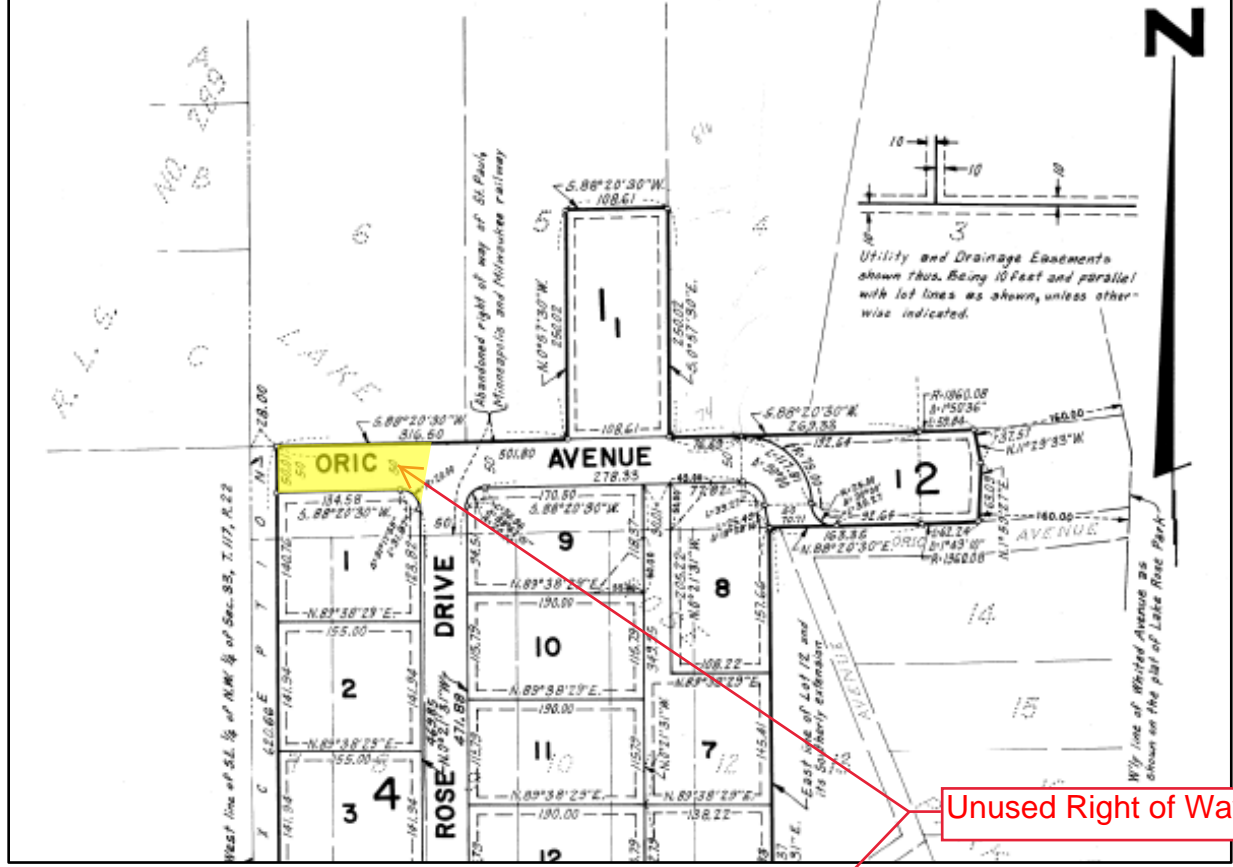
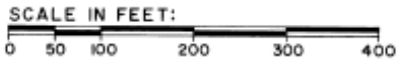
Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on [_____].

Becky Koosman, City Clerk

LAKE ROSE ESTATES

BEARINGS SHOWN ARE ASSUMED MAY, 1974 EGAN, FIELD & NOWAK, INC. SURVEYORS
• DENOTES IRON MONUMENT



Unused Right of Way





**City Council Agenda Item 10E
Meeting of October 4, 2021**

Title: Resolution declaring the official intent to reimburse certain expenditures from the proceeds of bonds to be issued

Report From: Darin Nelson, Finance Director

Submitted through: Mike Funk, Acting City Manager
Will Manchester, P.E., Public Works Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The city is anticipating issuing utility bonds in November or December this year to partially finance the costs of 2021 utility improvement projects. The Internal Revenue Service (IRS) requires the city to pass a declaration of intent resolution in order to reimburse itself with bond proceeds for costs incurred prior to the bond issuance.

Recommended Action

Adopt the resolution declaring the city's official intent to reimburse certain expenditures from the proceeds of bonds to be issued.

Strategic Profile Relatability

- | | |
|---|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input checked="" type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input type="checkbox"/> N/A | |

This resolution is the first step in the process of financing major utility infrastructure improvements that are needed to maintain the city's long-term investment in safe and efficient utilities.

Financial Consideration

- Is there a financial consideration? No Yes
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other

Subject: Resolution declaring the official intent to reimburse certain expenditures from the proceeds of bonds to be issued

Background

The city is anticipating issuing approximately \$10 million in utility bonds in November or December this year to partially finance the costs of 2021 utility improvements. The city is currently temporarily financing these projects with its utility reserves. The 2021-2025 Capital Improvement Plan (CIP) and the 2021 budget anticipated issuing bonds this year to aid in financing a portion of the capital costs, which is consistent with the city's long-term strategy to maintain and reconstruct to city's \$600 million utility investment.

The 2021 utility projects include:

Water Trunk Line Replacement – Ridgedale Drive	\$2,275,000
Sewer System Sustainability Improvements – Williston Lift Station	\$1,900,000
Sewer Forcemain Lining – Minnetonka Blvd	\$3,800,000
Local Street Rehab – Groveland Bay	\$2,680,000
Local Street Rehab – Ridgemount	\$1,150,000

The difference between the bond issuance of approximately \$10 million and the estimated project costs of almost \$11.8 million will be financed using utility reserves, which was also anticipated in the 2021-2025 CIP and 2021 budget along with the long-term forecasting performa used to analyze water and sewer rates.

The IRS requires the city to pass a declaration of intent resolution in order to reimburse itself with bond proceeds for project-related costs incurred prior to the bond issuance.

The next step in the bond issuance process is setting the sale date for the utility bonds, which typically occurs about 30 days in front of the sale date and is set by council action. That action item is anticipated to be on an agenda in October or early November.

Resolution No. 2021-

Resolution declaring the official intent of the City of Minnetonka to reimburse certain expenditures from the proceeds of bonds to be issued by the City

Be it resolved by the City Council (the "Council") of the City of Minnetonka, Minnesota (the "City") as follows:

Section 1. Recitals.

- 1.01. The City is authorized to incur certain expenditures that may be financed temporarily from sources other than bonds and reimbursed from the proceeds of a tax-exempt bond.
- 1.02. The Internal Revenue Service has issued Treas. Reg. § 1.150-2 (the "Reimbursement Regulations") providing that proceeds of tax-exempt bonds used to reimburse prior expenditures will not be deemed spent unless certain requirements are met.
- 1.03. The City expects to incur certain expenditures related to the Project described herein that may be financed temporarily from sources other than bonds and reimbursed with the proceeds of a tax-exempt bond in accordance with the terms hereof.
- 1.04. The City has determined to make this declaration of official intent (the "Declaration") to reimburse certain costs from proceeds of bonds in accordance with the Reimbursement Regulations.

Section 2. Findings; Approvals.

- 2.01. The City proposes to undertake the construction of improvements to the City's water system and sanitary sewer system, including but not limited to distribution and collection, water storage, system equipment, capital system efficiency requirements and facilities and related street rehabilitation (the "Project").
- 2.02. The City reasonably expects to reimburse the expenditures made for certain costs of the Project from the proceeds of bonds in an estimated maximum principal amount of \$10,000,000. All reimbursed expenditures will be capital expenditures, costs of issuance of the bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Reimbursement Regulations.
- 2.03. This Declaration has been made not later than sixty (60) days after payment of any original expenditure to be subject to a reimbursement allocation with respect to the proceeds of bonds, except for the following expenditures: (a) costs of issuance of bonds; (b) costs in an amount not in excess of \$100,000 or five percent (5%) of the proceeds of an issue; or (c) "preliminary expenditures" up to an amount not in excess of twenty percent (20%) of the aggregate issue price of the issue or issues that finance or are reasonably expected by the City to finance

the project for which the preliminary expenditures were incurred. The term "preliminary expenditures" includes architectural, engineering, surveying, bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction or rehabilitation of a project, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

2.04. This Declaration is an expression of the reasonable expectations of the City based on the facts and circumstances known to the City as of the date hereof. The anticipated original expenditures for the Project and the principal amount of the bonds described in Section 2.02 are consistent with the City's budgetary and financial circumstances. No sources other than proceeds of bonds to be issued by the City are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside pursuant to the City's budget or financial policies to pay such Project expenditures.

2.05. This Declaration is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations.

Adopted by the City Council of the City of Minnetonka, Minnesota this 4th day of October, 2021.

Brad Wiersum, Mayor

ATTEST:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a meeting held on October 4, 2021.

Becky Koosman, City Clerk



**City Council Agenda Item 10F
Meeting of October 4, 2021**

Title: Resolution appointing election judges and absentee ballot board for the Nov. 2 General Municipal Election

Report From: Becky Koosman, City Clerk

Submitted through: Mike Funk, Acting City Manager
Moranda Dammann, Acting Assistant City Manager

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Appointing election judges and absentee ballot board for the Nov. 2 election.

Recommended Action

Adopt the resolution appointing the election judges for the Nov. 2, 2021 General Municipal Election.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

Statement: The appointment of election judges is aligned with operational excellence and continues the efforts to fulfill the action item of transitioning to ranked choice voting in 2021.

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: The 2021 General Municipal Election, including election judge salaries, is included in the 2021 operational budget.

Background

Subject: Resolution appointing election judges and absentee ballot board for the Nov. 2 General Municipal Election

The city council is being asked to consider a resolution appointing election judges and the absentee ballot board for the Nov. 2, 2021 General Municipal Election.

Council is asked to approve the eligible election judges listed in the resolution. From this list, staff will make assignments to ensure the required party balance. These election judges will be used to staff polling places, assist with absentee voting and help with the absentee ballot board. Most polling places will be staffed with 6-7 election judges. The resolution also gives the city clerk authority to appoint emergency election judges to fill vacancies that may occur at the last minute.

Resolution No. 2021-

Resolution appointing election judges for the Nov. 2, 2021 General Municipal Election

Be it resolved by the City Council of the City of Minnetonka, Minnesota as follows:

Section 1. Background.

- 1.01. The General Municipal Election will be held on Nov. 2, 2021. The City Council is required by law to appoint election judges to serve at the polling places on Election Day.
- 1.02. Voting will occur at all 23 precincts in the city. Election judges will serve at the polling places and assist with absentee ballot processing.

Section 2. Council Action.

- 2.01. The City Council hereby authorizes the city clerk to select from the attached list of individuals to serve as election judges for the Nov. 2, 2021 General Municipal Election and as the city's absentee ballot board.
- 2.02. The City Council also appoints all members appointed to the Hennepin County Absentee Ballot Board as authorized under M.S. 204B.21, subd 2 under the direction of the county election manager to serve as members of the Minnetonka Absentee Ballot Board.
- 2.03. The City Council also authorizes the city clerk to make emergency appointments of election judges to fill last-minute vacancies.

Adopted by the City Council of the City of Minnetonka, Minnesota, on October 4, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this resolution:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent: Carter

Resolution adopted.

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the City Council of the City of Minnetonka, Minnesota, at a duly authorized meeting held on October 4, 2021.

Becky Koosman, City Clerk

Poll Worker Report, 2021 Municipal General Election

General Election, Tuesday, November 2, 2021

Absentee

Absentee, 14600 Minnetonka Blvd, Minnetonka, MN 55345

Diane Anderson, Absentee Judge
Shari Anderson, Absentee Judge
Joy A Baker, Absentee Judge
Sally E Berg, Absentee Judge
Rita C Blackstad, Absentee Judge
Penny Isabelle Bryce, Absentee Judge
Lynn Alison Cerra, Absentee Judge
Jeffrey A Dickhut, Absentee Judge
Linda M Eliason, Absentee Judge
Steve W Eliason, Absentee Judge
Clifford G Giese, Absentee Judge
Catherine L Goset, Absentee Judge
Linda A Jacobs, Absentee Judge
Teresa L Landberg, Absentee Judge
Kay C Midura, Absentee Judge
Danna Heilicher Mirviss, Absentee Judge
Jean A Rabens, Absentee Judge
Steven J Rabens, Absentee Judge
Teri Lynn Wold, Absentee Judge

Election Testing

Election Room, 14600 Minnetonka Blvd, Minnetonka, MN 55345-1502

Shari Anderson, Mock Election Judge
Jeffrey A Dickhut, Mock Election Judge
Linda M Eliason, Mock Election Judge
Steve W Eliason, Mock Election Judge
Teri Lynn Wold, Mock Election Judge
Bonnie I Cain, Election Testing - Lead EJ
Katherine D Rogers, Election Testing - Lead EJ

Minnetonka W-1 P-A

Immaculate Heart of Mary Catholic Church, 13505 Excelsior Blvd, Minnetonka, MN 55345

Diane Anderson, Election Judge
Beth Renee Flynn, Election Judge
Carl A Klein, Election Judge
Martha Jean Mason, Election Judge
Dave Murphy, Election Judge
Steven J Rabens, Lead Judge
Sally E Berg, Assistant Lead Judge

Minnetonka W-1 P-B

Old Apostolic Lutheran Church, 5617 Rowland Rd, Minnetonka, MN 55343

Ronald E Berg, Election Judge
Cynthia Louise Devore, Election Judge
Robin Lea Hellmer, Election Judge
Tracy Lynn Ingham, Election Judge
Betty Jean Ingram, Election Judge
Nancy Kralovec, Election Judge
Michelle Lynn Wahlen, Election Judge
Hugh David Allan, Lead Judge
Susan H Ritten, Lead Judge
Emily Van Dixhorn, Student Election Judge

Poll Worker Report, 2021 Municipal General Election

Minnetonka W-1 P-C

Cross Of Glory Baptist Church, 4600 Shady Oak Rd, Minnetonka, MN 55343

Julie Belisle, Election Judge
Pamela Jean Dionne, Election Judge
Michael Anthony Mitchell, Election Judge
Julie Klaustermeier O Connor, Election Judge
Blanca Ivonne Perpich, Election Judge
Michael Sandler, Election Judge
Joy A Baker, Lead Judge
Shawn Johnson, Assistant Lead Judge
Brian Stewart, Assistant Lead Judge

Minnetonka W-1 P-D

Destiny Hill Church, 13207 Lake St Extension, Minnetonka, MN 55305

Sally A Bressler, Election Judge
Mary Ruth Brill, Election Judge
Marissa Lynn Haeny, Election Judge
Susan P Hocker, Election Judge
Sarah Elizabeth Landt, Election Judge
Saralee D Mogilner, Election Judge
Kristine L Newcomer, Election Judge
Loren J Simer, Lead Judge
Sophie J Worrell, Assistant Lead Judge

Minnetonka W-1 P-E

Minnetonka Public Works Facility, 11522 Minnetonka Blvd, Minnetonka, MN 55305

Shannon Marie Andreson, Election Judge
Jose Fernando Bucaro, Election Judge
Bernard G Devine, Election Judge
Mary M Duske, Election Judge
Denise S Maxwell, Election Judge
Noah Olson, Election Judge
Jeffrey D Kurtz, Lead Judge
Ray R Lewis, Assistant Lead Judge

Minnetonka W-1 P-F

Minnetonka Community Center (1F), 14600 Minnetonka Blvd, Minnetonka, MN 55345

Steven R Fuller, Election Judge
Thomas Barr Hardin, Election Judge
Aleta Suzette Leizinger, Election Judge
Christopher Glen Olson, Election Judge
Gail A Podany, Election Judge
Larry Charles Sharpe, Election Judge
Clifford G Giese, Lead Judge
Jenna Ruiz, Assistant Lead Judge

Minnetonka W-2 P-A

Minnetonka Community Center (2A), 14600 Minnetonka Blvd, Minnetonka, MN 55345

Alison Lee Albrecht, Election Judge
Carla Hennes, Election Judge
Jane L Hicks, Election Judge
Andrea Katherine Johnson, Election Judge
Meghan Schadow, Election Judge
David Paul Struck, Election Judge
Clay Alexander Young, Election Judge
Tom S Marshall, Lead Judge

Poll Worker Report, 2021 Municipal General Election

Lynn Nelson Staloch, Assistant Lead Judge

Minnetonka W-2 P-B

St David's Episcopal Church, 13000 St David's Rd, Minnetonka, MN 55345

Sharon Angela Azan, Election Judge
Lynn Alison Cerra, Election Judge
Maryna P Chowhan, Election Judge
Gayle Jean Dreon, Election Judge
Linda Jean Kongsvik, Election Judge
Mary A Lee, Election Judge
Kathy Huber Weinshel, Lead Judge
Marci J Anderson, Assistant Lead Judge

Minnetonka W-2 P-C

Oak Knoll Lutheran Church, 600 Hopkins Crossroad, Minnetonka, MN 55305

Lori Knudsen, Election Judge
Ruth Ann Lecy Jr., Election Judge
Reid Michael Madden, Election Judge
Roger E Michael, Election Judge
James Philip Robbins, Election Judge
David P Allen, Lead Judge
Mary Louise O Brien, Assistant Lead Judge

Minnetonka W-2 P-D

Ridgedale Hennepin County Library (2D), 12601 Ridgedale Dr, Minnetonka, MN 55305

Leda Baker, Election Judge
Neil M Belkin, Election Judge
Elizabeth Nancy Goldwyn, Election Judge
Robert Carl Lewis House, Election Judge
Michael J Kalscheuer, Election Judge
Shari Anderson, Lead Judge
Kathleen J Clouse, Assistant Lead Judge
Linda A Jacobs, Assistant Lead Judge

Minnetonka W-2 P-E

Lindbergh Center, 2400 Lindbergh Dr, Minnetonka, MN 55305

Carol B Andruskiewicz, Election Judge
Ernest James Denzer, Election Judge
Diann Ellen Koch, Election Judge
Pamela Andersen Oconnell, Election Judge
Pamela E Schroeder, Election Judge
Ashley Nicole Wyatt, Election Judge
Carolyn Marie Fackler, Lead Judge
Maynard Francis Stucki, Assistant Lead Judge

Minnetonka W-3 P-A

Ridgedale Hennepin County Library (3A), 12601 Ridgedale Dr., Minnetonka, MN 55305

David James Knight, Election Judge
Matthew D Lafontaine, Election Judge
Mark J Moller, Election Judge
James M Rosenbaum, Election Judge
Richard Samuel Strimling, Election Judge
Catherine L Goset, Lead Judge
Penny Isabelle Bryce, Assistant Lead Judge

Minnetonka W-3 P-B

Minnetonka Council Chambers, 14600 Minnetonka Blvd., Minnetonka, MN 55345

Poll Worker Report, 2021 Municipal General Election

Deborah S Enzenauer, Election Judge
Claudia Diane Gundlach, Election Judge
Judith A Houston, Election Judge
Teresa L Landberg, Election Judge
Jessica Jasper Rush, Election Judge
Nancy E Sommer, Election Judge
Jane B Stowers, Election Judge
Rita C Blackstad, Lead Judge
Arnold D Courneya, Assistant Lead Judge

Minnetonka W-3 P-C

Minnetonka Community Center (3C), 14600 Minnetonka Blvd, Minnetonka, MN 55345

Mark Glen Dillon, Election Judge
Lorraine A Kretchman, Election Judge
Julie Mart, Election Judge
Amanda Louise Maxwell, Election Judge
Diane Marie Sewall, Election Judge
Will Murphy Vossberg, Lead Judge
Annquanette Garner, Assistant Lead Judge

Minnetonka W-3 P-D

St Lukes Presbyterian Church, 3121 Groveland School Rd, Wayzata, MN 55391

Mary Margaret Anderson, Election Judge
Mark Cady, Election Judge
Pamela Holl, Election Judge
Norine A Larson, Election Judge
Karen J Lawrie, Election Judge
Aimee H Meyer, Election Judge
Danna Heilicher Mirviss, Election Judge
Pamela Ann Nouis, Election Judge
Berendina Marleen Numan, Election Judge
Jeffrey J McCullough, Lead Judge
Mark Pochardt, Assistant Lead Judge

Minnetonka W-3 P-E

Bethlehem Lutheran Church, 16023 Minnetonka Blvd, Minnetonka, MN 55345

Nina Arleth, Election Judge
Elaine E Clyborne Barber, Election Judge
Camille Rose Burleson, Election Judge
Peggy Sue-Nordseth Carlson, Election Judge
Cynthia L Courneya, Election Judge
Kathleen A Dixon, Election Judge
Elaina Espino, Election Judge
Larry James Klingbeil, Election Judge
Bonnie I Cain, Lead Judge
Myron Paul Wiens, Assistant Lead Judge
Emily Joseph, Student Election Judge

Minnetonka W-3 P-F

Minnetonka United Methodist Church, 17611 Lake St Ext, Minnetonka, MN 55345

David Dean Biesboer, Election Judge
Sandra J Blackman, Election Judge
Melinda A Kohrt, Election Judge
Betty Kriedberg, Election Judge
Nancy Reesor Johnsrud, Election Judge
Earl G Swenson, Election Judge

Poll Worker Report, 2021 Municipal General Election

Barbara Ann Winn, Election Judge
Linda S Rasula, Lead Judge
Jeffry L Roehl, Assistant Lead Judge

Minnetonka W-4 P-A

Ridgewood Church, 4420 County Road 101, Minnetonka, MN 55345

Mary E Amsden, Election Judge
Colleen M Haggar, Election Judge
Joseph Robert Jacobs, Election Judge
Emelie M Johnson, Election Judge
Dean J Meyer, Election Judge
Donald David Ogren, Election Judge
Joyce G Powell, Election Judge
Geraldine S Simer, Election Judge
Jacqueline A Zimmerman, Election Judge
Teri Lynn Wold, Lead Judge
Judith Marie Melinat, Assistant Lead Judge

Minnetonka W-4 P-B

Minnetonka School District Service Center, 5621 County Road 101, Minnetonka, MN 55345

Nancy L Gooch, Election Judge
James Herman Hinderks, Election Judge
Russell Herbert Holland, Election Judge
Sharon P Levine, Election Judge
Jane C Schmitt, Election Judge
John Matthew Selisky, Election Judge
Daniel Edward Schowengerdt, Lead Judge
Ronnie J Melinat, Assistant Lead Judge

Minnetonka W-4 P-C

Bethlehem Lutheran Church Glen Lake, 5701 Eden Prairie Rd , Minnetonka, MN 55345

Jeanette Anderson, Election Judge
Eneisha Martell Burchette, Election Judge
Angela Kathleen Griffin, Election Judge
Maxwell Richmon Hendrix, Election Judge
Marina Kosovan, Election Judge
Craig Matthias Kronzer, Election Judge
Mark David Werley, Election Judge
Linda Zimmerman, Election Judge
Barbara Lynn Kern-Pieh, Lead Judge
Isabelle C Robinson, Assistant Lead Judge

Minnetonka W-4 P-D

Redeemer Bible Church, 16205 State Hwy 7, Minnetonka, MN 55345

Rosemary E Johnson, Election Judge
Kathryn Marie Mason, Election Judge
Barbara Ann O'Keefe, Election Judge
Patricia Ann Ode, Election Judge
Jacqueline A Olafson, Election Judge
Fidanka Kroumova Pentcheva, Election Judge
Mary H Traynham, Election Judge
Reo Deann Uran, Election Judge
John A Opsahl, Lead Judge
Katherine D Rogers, Assistant Lead Judge

Minnetonka W-4 P-E

All Saints Lutheran Church, 15915 Excelsior Blvd, Minnetonka, MN 55345

Poll Worker Report, 2021 Municipal General Election

Christopher J Carlson, Election Judge
Patricia M Hollister, Election Judge
Dana Elizabeth Rubin, Election Judge
Steven C Zelinsky, Election Judge
Diana Lynn Benjamin, Lead Judge
Hannah L Worrell, Assistant Lead Judge

Minnetonka W-4 P-F

Glen Lake Activity Center (4F), 14350 Excelsior Blvd, Minnetonka, MN 55345

John Goodrich, Election Judge
Florence Jeanne Lutgen, Election Judge
Kimberly A Oleson, Election Judge
Roberta Louise Seefeldt, Election Judge
Laurel Beth Stoltenberg, Election Judge
Sally J Wahlberg, Election Judge
Mark Alfred Willette, Election Judge
Jean A Rabens, Lead Judge
Jeffry A Dickhut, Assistant Lead Judge

Ward Captains

Steve W Eliason, Ward Captain
Margaret Hancock, Ward Captain
Timothy James Worrell, Ward Captain
Linda M Eliason, Ward Captain



**City Council Agenda Item 13
Meeting of October 4, 2021**

Title: Gas franchise ordinance with CenterPoint Energy Resources Corp.

Report From: Corrine Heine, City Attorney

Submitted through: Mike Funk, Acting City Manager
Darin Nelson, Finance Director
Will Manchester, P.E., Public Works Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

The existing gas franchise with Reliant Energy Minnegasco (now CenterPoint Energy Resources Corp.) will expire on Feb. 11, 2022. City staff have negotiated a new 20-year franchise agreement. The city council will conduct a public hearing to receive public feedback.

Recommended Action

Adopt the ordinance granting a gas franchise to CenterPoint Energy Resources Corp.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

Statement: The franchise agreement grants rights to CenterPoint to use city rights of way for its gas facilities. The agreement includes terms to ensure that city facilities are protected and disturbed areas are restored. The agreement also authorizes the collection of franchise fees, which the city council has historically designated to pay for trail improvements.

Financial Consideration

Is there a financial consideration? No Yes Approx. \$1.45 million
Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Statement: The franchise agreement provides for collection of franchise fees at the same rate as established in 2018, maintaining revenue at the budgeted amount. The ordinance has no new budget impact.

Background

The city's existing franchise ordinance with Reliant Energy Minnegasco (now CenterPoint Energy Resources Corp.) will expire on Feb. 11, 2022. City staff members have negotiated a new franchise agreement with CenterPoint.

The ordinance was introduced on Sept. 13, 2021. The council did not request changes to the ordinance. As required by the city charter, a public hearing has been scheduled for the Oct. 4, 2021 council meeting.

Key provisions of the ordinance are described below. Substantive changes from the existing franchise ordinance are noted:

- **Term.** The franchise is for a 20-year period, which is the maximum allowed by the city charter. The franchise includes a continuation clause that allows the franchise to remain in effect while the parties continue to negotiate, subject to the right of either party to terminate the extension by giving 90 days' notice to the other party. *New provision: the franchise puts a 12-month limit on any continuation of the franchise past its original expiration date. This is consistent with the city's electric franchise with NSP.*
- **Use of public ways and public grounds.** The franchise regulates the company's use of both public ways (rights of way dedicated to public use, such as streets and utility) and public grounds (e.g., lands owned in fee title by the city).
 - Gas facilities must be located, constructed and maintained so as not to interfere with the safety and convenience of travel on city streets and so as not to disrupt normal operation of city utilities. The city has the right to adopt reasonable regulations regarding management of its right of way (City Code Section 1120), and may charge permit fees to CenterPoint for right of way permits.
 - CenterPoint must restore any city right of way that it disturbs and must provide a two-year maintenance warranty for any paved surfaces that it restores.
 - The city may require the company to relocate its facilities from public ways and public grounds, in most cases, at the company's expense.
- **Coordination and planning.** The city must provide notice of street improvements to the company and notice of street vacations. The company must provide mapping information of its gas facilities as required by Minnesota Rules and must maintain records regarding abandoned facilities. *New Provision: Section 10 requires the city and company to meet annually to coordinate infrastructure plans for the coming year.*
- **Defense and Indemnity.** The company must indemnify and defend the city against claims occasioned by the construction, maintenance, repair, and operation of the gas facilities, but the city is responsible for losses that arise from the city's own negligence.
- **Franchise fee.** The ordinance authorizes the city to impose a franchise fee. The proposed ordinance re-states the existing franchise fee amounts, as imposed in 2018. Although the city may change the franchise fee amount in the future, either upward or

downward, the proposed ordinance does not change those fees. Any future change requires the council to adopt a separate ordinance and follow specified procedures. Franchise fees are collected quarterly.

- Dispute resolution. The parties agree to negotiate in good faith and mediate prior to commencing litigation over any dispute.
- Effective date. The ordinance is effective as of the later of: adoption and publication by the city and acceptance by the company; or Feb. 11, 2022. The company has 60 days after adoption to accept the ordinance. Under the anticipated schedule for adoption, the effective date will be Feb. 11, 2022.

GAS FRANCHISE ORDINANCE

ORDINANCE NO. _____

CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP., d/b/a CENTERPOINT ENERGY MINNESOTA GAS (“CENTERPOINT ENERGY”), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF MINNETONKA, HENNEPIN COUNTY, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

THE CITY OF MINNETONKA ORDAINS:

SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City. The City of Minnetonka, County of Hennepin, State of Minnesota.

City Utility System. Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

Company. CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas (“CenterPoint Energy”) its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

Gas Energy. Gas Energy includes both retail and wholesale natural, manufactured or mixed gas.

Gas Facilities. Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

Notice. A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Vice President Regional Operations - Minnesota, 505 Nicollet Mall, Minneapolis, Minnesota, 55402. Notice to the City shall be mailed to City of Minnetonka, City Manager, 14600 Minnetonka Boulevard, Minnetonka, MN 55345. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

Ordinance. This gas franchise ordinance, also referred to as the Franchise.

Public Way. Any public right-of-way within the City as defined by Minnesota Statutes, Section 237.162, subd. 3.

Public Ground. Land owned or otherwise controlled by the City for park, open space or similar public purpose, which is held for use in common by the public and not a Public Way.

SECTION 2. ADOPTION OF FRANCHISE.

2.1 **Grant of Franchise.** City hereby grants Company, for a period of twenty (20) years from the Effective Date of this Ordinance, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance or permit requirements adopted consistent with state law and with the further provisions of this franchise agreement.

2.2 **Effective Date; Written Acceptance.** This Franchise shall be in force and effect on the later of (a) the passage of this Ordinance and publication as required by law and its acceptance by Company or (b) February 11, 2022. If Company does not file a written acceptance with the City within sixty (60) days after the date the City Council adopts this Ordinance, or otherwise inform the City, at any time, that the Company does not accept this Franchise, the City Council may pursue any remedy available in law or equity, including but not limited to revoking this Franchise by resolution.

2.3. **Service and Gas Rates.** To the extent provided by law, the service to be provided and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** Company shall reimburse the City for the expense of publication of this Ordinance.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until ninety (90) days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire. However, in no event shall this Franchise continue for more than one (1) year after expiration of the twenty (20) year term set forth in Section 2.1.

SECTION 3. LOCATION, OTHER REGULATIONS.

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds as determined by the City. The Company's construction, reconstruction, operation, repair, maintenance, location and relocation of Gas Facilities shall be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise.

3.2. **Field Locations.** Company shall provide field locations for its Gas Facilities within City, consistent with the requirements of Minnesota Statutes, Chapter 216D.

3.3. **Street Openings.** Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by the Minnetonka City Code as it may be amended from time to time, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities, and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two (2) business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.4. **Restoration.** After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Way or Public Ground in accordance to as good a condition as formerly existed, and shall maintain the paved surfaces in good condition for two (2) years thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration of the Public Way or Public Ground at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.3.

3.5. **Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property, or the elements. The City must take protective measures when the City performs work near the Gas Facilities, as required by Minnesota Statute 216D.05.

3.6. **Notice of Improvements to Streets.** The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Grounds is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time,

considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities the Company deems necessary. In an emergency situation, the City shall notify Company by telephone and email to the representatives designated by Company, before commencing the emergency work, if reasonably possible, but in any event as soon as practicable.

3.7 **Mapping Information.** Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100.

3.8. **Emergency Response.** As emergency first-responders, when a public safety concern exists both the City and Company shall respond to gas emergencies within the City without additional direct fee or expense to either City or Company.

SECTION 4. RELOCATIONS.

4.1. **Relocation in Public Ways.** Company and City shall comply with Minnesota Rules, part 7819.3100 and applicable City ordinances consistent with law.

4.2. **Relocation in Public Grounds.** The City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Ground upon a finding by the City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground. Relocation shall comply with applicable city ordinances consistent with law.

4.2. **Projects with Federal Funding.** Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Sections 161.45 and 161.46, as applicable.

SECTION 5. INDEMNIFICATION.

5.1. **Indemnity of City.** Company shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for that portion of any losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be

interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS.

The City shall give Company at least two (2) weeks prior written Notice of a proposed vacation of a Public Way. The City and the Company shall comply with Minnesota Rules 7819.3100 and Minnesota Rules 7819.3200 and applicable ordinances consistent with law.

SECTION 7. CHANGE IN FORM OF GOVERNMENT.

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

SECTION 8. FRANCHISE FEE.

8.1. **Form.** During the term of the franchise hereby granted, and in addition to permit fees being imposed or that the City has a right to impose, the City may charge the Company a franchise fee. The fee may be (i) a percentage of gross revenues received by the Company for its operations as a public utility within the City, or (ii) a flat fee per customer based on metered service to retail customers within the City or on some other similar basis, or (iii) a fee based on units of energy delivered to any class of retail customers within the corporate limits of the City. The method of imposing the franchise fee, the percentage of revenue rate, or the flat rate based on metered service may differ for each customer class or combine the methods described in (i) – (iii) above in assessing the fee. The City shall seek to use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with applicable Minnesota Public Utility Commission requirements. If the Company claims that the City's required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company shall provide a formula that will produce a substantially similar fee amount to the City. The City will attempt to accommodate the Company but is under no franchise obligation to adopt the Company-proposed franchise fee formula and each review will not delay the implementation of the City-imposed fee. The City and Company have agreed that the franchise fee collected by the Company and paid to City in accordance with this Section 9 shall initially be equal to the amounts indicated in the Fee Schedule adopted by Ordinance No. 2018-16 ad set forth again below:

<u>Class</u>	<u>Amount per Account Per Month (\$)</u>
Residential	\$ 4.50 per month
Firm A	\$ 4.50 per month
Firm B	\$13.50 per month
Firm C	\$45.00 per month
Small Volume, Dual Fuel A ("SVDF A")	\$45.00 per month
Small Volume, Dual Fuel B ("SVDF B")	\$45.00 per month
Large Volume, Dual Fuel ("LVDF")	\$45.00 per month

8.2. **Separate Ordinance.** Any change to the franchise fee established by the Fee Schedule set out in Section 8.1 above shall be imposed by a separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least ninety (90) days after written Notice enclosing a copy of the duly adopted and approved ordinance has been served upon the Company by Certified mail. Section 2.5 shall constitute the sole remedy for solving disputes between Company and the city in regard to the interpretation of, or enforcement of, the separate ordinance. The franchise fee may be changed by ordinance from time to time; however, each change shall meet the same notice and acceptance requirements and not occur more often than once within any twelve (12) consecutive calendar months.

8.3. **Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise. The "same or substantially similar amount" shall be measured, if practicable, by comparing amounts collected as a franchise fee from each similar customer, or by comparing, as to similar customers, the percentage of the annual bill represented by the amount collected for franchise fee purposes. If Company specifically consents in writing to a franchise or separate ordinance collecting or failing to collect a fee from another energy supplier in contravention of this Section 8.3, the foregoing conditions will be waived to the extent of such written consent.

8.4. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with applicable Minnesota Public Utility requirements. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The time and manner of collecting the franchise fee is subject to the approval of the Commission, and Company agrees not to take any action to delay or interfere with Commission approval. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments. In addition, Company agrees to provide, upon City request, but not more than annually, a statement summarizing how the franchise fee payment was determined, including information showing any adjustments made to account for any write-offs, recoveries or refunds.

8.5. **Continuation of Franchise Fee.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon notwithstanding the franchise expiration as provided in section 2.6 above.

SECTION 9. ABANDONED FACILITIES.

The Company shall comply with Minnesota Statutes, Section 216D.01, et seq and Minnesota Rules, Part 7819.3300, as they may be amended from time to time, and reasonable regulations as may be imposed by the City pursuant to an ordinance adopted consistent with state law, to the extent not inconsistent with a specific term of this Franchise. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request and comply with the location requirements of Minnesota Statutes, Section 216D.04 with respect to all Gas Facilities, including abandoned and retired Facilities.

SECTION 10. SAFETY AND INFRASTRUCTURE REPORTING.

The Company and the City shall meet annually at a mutually convenient time to discuss items of concern or interest relating to the Company's safety and service reliability in the previous year, compared to other service areas, infrastructure plans for the coming year and other matters raised by the City or the Company. At the annual meeting, City and Company each will identify possible, known infrastructure projects scheduled for construction or installation in the upcoming construction season. At City's request for records of abandoned facilities in a specific location, Company will provide reasonably available records to City in the format in which, at the time of the request, Company keeps the records.

SECTION 11. PROVISIONS OF ORDINANCE.

11.1. **Severability.** Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

11.2. **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between the City and Company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third-party beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

SECTION 12. AMENDMENT PROCEDURE.

Either party may propose at any time that this Franchise Ordinance be amended. This Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within sixty (60) days after the effective date of the amendatory ordinance. This amendatory procedure is subject, however, to the City's police power and franchise rights under Minnesota Statutes, Sections 216B.36 and 301B.01, which rights are not waived hereby.

Passed and approved: _____, 20__.

Brad Wiersum, Mayor

Attest:

Ordinance No. _____

Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction:

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on _____.

Becky Koosman, City Clerk



**City Council Agenda Item 13B
Meeting of October 4, 2021**

Title: On-sale intoxicating, Sunday on-sale intoxicating, and off-sale intoxicating liquor licenses to Yayin Gadol, LLC d/b/a Top Ten Liquors at 1641 Plymouth Road

Report From: Fiona Golden, Community Development Coordinator

Submitted through: Mike Funk, Acting City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Top Ten Liquors has submitted two applications for off-sale intoxicating and on-sale intoxicating licenses in the former Champps location. The applicant, Yayin Gadol, LLC, proposes operating an on-sale wine bar and grocery store with an adjacent off-sale liquor store. The city council is required to hold a hearing to consider the licenses and receive public testimony.

Recommended Action

Motion to continue to Nov. 8, 2021 for final consideration.

Strategic Profile Relatability

- | | |
|--|---|
| <input type="checkbox"/> Financial Strength & Operational Excellence | <input type="checkbox"/> Safe & Healthy Community |
| <input type="checkbox"/> Sustainability & Natural Resources | <input type="checkbox"/> Livable & Well-Planned Development |
| <input type="checkbox"/> Infrastructure & Asset Management | <input type="checkbox"/> Community Inclusiveness |
| <input checked="" type="checkbox"/> N/A | |

Financial Consideration

- Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]
- Financing sources: Budgeted Budget Modification New Revenue Source
 Use of Reserves Other [Enter]

Background

Applicant, Jon Halper, a majority owner of Yayin Gadol, LLC, is proposing a Top Ten Liquor store along with Wineside - a new mixed-use concept that combines a wine bar and gourmet grocery store. The entire space will encompass the former Champps location near Ridgedale. Currently, Top Ten Liquors has 12 off-sale liquor stores throughout the metro area, none in Minnetonka. The space is approximately 13,000 square feet. The applicant proposes 1,400 square feet dedicated to groceries, 2,250 square feet for a restaurant wine bar, and 7,500 square feet for an adjacent off-sale liquor store.

Top Ten Liquors – Off-Sale Application

At the [July 12, 2021](#), concept plan review, the council commented on the number of off-sale establishments around the Ridgedale Mall, but provided some feedback that a mixed-use space may provide a unique experience to the area. The full [City Council policy 6.1](#) addresses on and off-sale liquor establishments. An excerpt of the policy states:

- **Off-Sale Licenses Off-sale establishments provide intoxicating liquor that will be consumed in environments that are not monitored. An increase in the number of those outlets increases the access to liquor, contributes to public safety concerns, and detracts from the desired image of the city. Accordingly, the city council determines that the 12 off-sale intoxicating liquor licenses existing as of March 22, 2010 are generally adequate to serve the city. However, the council reserves the right not to issue any license even if the number falls below 12. Despite this maximum number, the council will consider, but not necessarily approve, additional off sale intoxicating liquor licenses only if the council finds in its sole discretion that the business:**
 - a. offers a distinctive specialty service, or
 - b. is a complementary part of a business that would add positively to the experience of living and working in the city; or
 - c. is part of a village center that is not currently served.

The city currently has ten off-sale intoxicating liquor licenses. A location map can be found [here](#).

In accordance with [MN Statute 340A.412 sub.14](#), the off-sale establishment must be “exclusive” and have a separate entrance to the store via a vestibule. The liquor store would be independent of the on-sale establishment.

Wineside – On-Sale Application

Wineside will be a full-service sit-down restaurant with an intoxicating liquor license. The restaurant will seat 96 inside and 40 on the outside patio area. The restaurant will be open daily for lunch and dinner and weekend brunch. The restaurant is not expected to be open past midnight.

Wineside is proposing to use a self-serving wine dispensing system called Enomatic. It offers customers over the age of 21 the chance to purchase a limited dollar card allowing them to sample over 100 wines-by-the-glass. The system limits a pour to 1 oz. and 2.5 oz., and the pre-paid card is charged accordingly. All wines that are being sampled will be available to purchase in the off-sale liquor store.

Subject: On-sale intoxicating and off-sale intoxicating liquor licenses for Yayin Gadol, LLC, at 1641 Plymouth Road

As well as the full-service restaurant and wine tasting experience, customers will also be able to purchase gourmet grocery items such as pasta, sauces, preserves, oils, and vinegars. Wineside is also proposing an extensive cheese counter with cured meats, fish, and pate for charcuterie plates. There will also be an espresso and pastry bar. Wineside is projecting the food to liquor ratio to be 60% food / 40% liquor.

The off-sale liquor store and the on-sale wine bar will be independently staffed with 1-2 store managers, 1-2 wine managers, and 1-3 assistant managers. Both the on-sale and off-sale locations will have a total of 50 employees. All employees are fully trained before their first shift on alcohol training including legal sales and identifying signs of intoxications. Top Ten Liquor and Wineside point of sale systems require an ID scan to complete a purchase.

Application information and license fees have been submitted. Area residents along with off-sale establishment owners have been notified of the public hearing. The police department's investigative report is pending and will be forwarded to the council prior to the continued public hearing on Nov. 8, 2021.

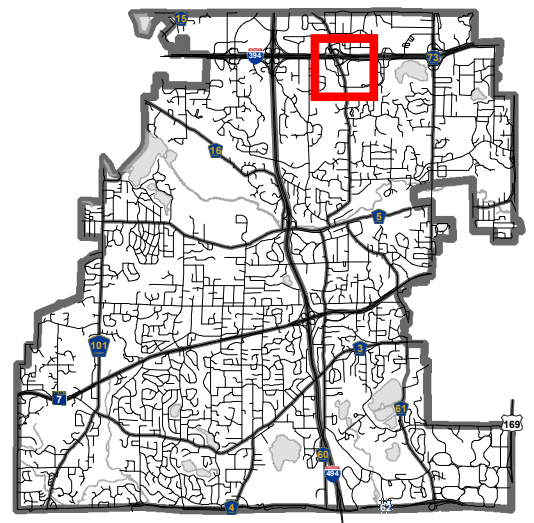
Other Project Requirements

The planned addition of the outdoor patio requires a Conditional Use Permit (CUP) application. The change in the use of the space from an exclusive restaurant to include an off-sale establishment and grocery store requires a parking study. The CUP application is tentatively scheduled to be heard at the Oct. 14, 2021, planning commission meeting. All items relating to the uses will then return to the city council at one time.



Location Map

Project: Top Ten Liquors
Address: 1641 Plymouth Road



Yayin Gadol, LLC Business Plan for Off Sale & On-Sale Liquor License Application

Who We Are:

Top Ten Liquors is the largest locally owned retail liquor store chain in Minnesota, operating since 2014. The chain started with an acquisition of four liquor stores in Andover, Blaine, Cottage Grove and Woodbury. The next acquisitions occurred in 2015 (St. Louis Park), 2016 (Ramsey) 2017 (Osseo) and 2018 (Chanhassen). In 2018, Top Ten opened its first new liquor store in Roseville and in 2020, proceeded to open three additional new liquor stores in Rosemount, Vadnais Heights, and Plymouth.

This application and business plan, if approved, will introduce our first liquor store integrated with a wine tasting and dining and grocery retail concept branded Wineside. The concept provides a one-of-a-kind, interactive, expansive wine tasting experience, with smart pantry/deli items to delight the gourmet, and great food pairings for interesting dine-in options.

Our Brand Focus/Business Model:

Great Product at a Value

- Competitively priced with national retail competition via our loyalty program.
- Buyers source worldwide to provide surprising selection at a great price.
- Weekly promotions focusing on top brands at great value to our customers.

Investment in our Team

- Investment in product training to provide tailored recommendations.
- Incentives provided for employees to advance product/industry education.
- Stores staffed to focus on quality customer service.
- Clean/Upscale store shopping experience, well lit, well signed

Our Proposal:

The applicant, Yayin Gadol (DBA as Top Ten Liquors – Off Premise and Wineside – On Premise), proposes to establish and operate a wine bar and grocery destination in Minnetonka, including an adjacent off-sale liquor store.

The concept will be housed in the space that is the former Champps restaurant at Bonaventure Mall. It is our understanding that prior to our proposed use the restaurant included a full service on-service bar and restaurant. If this concept is approved, approximately 1,400sf will be dedicated to groceries, 2,250sf will be an on-sale wine experience and 7,500sf will be a wine and spirits retailer, to be accessed through a separate entrance off a vestibule. To the best of our knowledge this is a new and unique concept in the State of Minnesota.

The multi-part establishment will include:

- 100+ by-the-glass interactive wine tasting system, serving global to local
- In-store dining (brunch/lunch/dinner) to compliment wine tasting (see concept menu)
- A gourmet grocery boutique shop (see category assortment below)
- A full-service liquor store, including the “by-the-glass” assortment

Customers will be carded to ensure 21+ and given a limited dollar amount card allowing them to sample wine from a self-serving, wine dispensing system, called Enomatic. This Italian-made system is equipped with a state-of-the-art wine preservation system, guaranteeing quality from the first to the last pour and limiting pour size to 1 and 2.5 oz pours.

The wine and spirits shop will be situated in a completely distinct section of the facility, allowing customers to purchase full bottles of wine, spirits, or beer. The Applicant will comply with all state and local laws and regulations regarding the service of alcohol. The liquor store is designed to enhance the dining and tasting experience.

This concept combines community, entertainment, and shopping in an experience consistent with Minnetonka’s vibrant retail and dining ecosystems. We believe this concept will be a destination for many types of retail trips:

- A great place for a group event - something for everyone, can choose your own adventure
- A fun learning experience - try new wines and learn from our well-educated staff
- Enjoy gourmet sandwiches and salads for lunch – as a break from work or shopping
- Cooking or gift giving for the gourmet – swing in to buy the hard-to-find pantry item
- A night on the town – enjoy dinner and a wine tasting. If you love the wine, stop at the liquor store to take home bottles of your favorites for another night.

We intend to compliment the highway 394/Plymouth Road area, which is an important retail center in the city. We anticipate the food to liquor ratio for the on-sale license to be 60% food / 40% liquor.

Top Ten Liquors Operations:

Staffing:

Our retail staffing model includes store managers, wine managers, assistant managers, key-holders, and hourly associates (both part-time and full-time). We ensure our salary (increased minimum wage to \$15/hour) and benefits (a free health care option is provided to full-time staff) are competitive to attract the best talent. Our retail managers are incented with bonus plans that tie to individual store performance, aligning our focus on great customer service. We encourage and support developing product knowledge through reimbursement and bonus compensation for continuous education.

The off-sale liquor store, and the on-sale wine bar will be independently staffed with 1-2 store managers, 1-2 wine managers and 1-3 assistant managers. We anticipate a total of 50 employees, with the remainder being comprised of key holders, full-time and part-time associates.

Alcohol Server Training Plan:

Both off-sale and on-sale employees are fully trained, before their first shift, on alcohol server training, including legal sales and identifying signs of intoxication.

The Wineside will be staffed with an appropriate ratio to provide service within the bar, at the table and at the hosting station, providing a multitude of touch points to ensure legal sales are occurring. Additionally, employees will be trained to mingle with customers to discuss product selections.

Management reinforces the following Legal Sales Training practices through regular leadership discussions.

Top Ten Liquors Legal Sales Best Practices include the following:

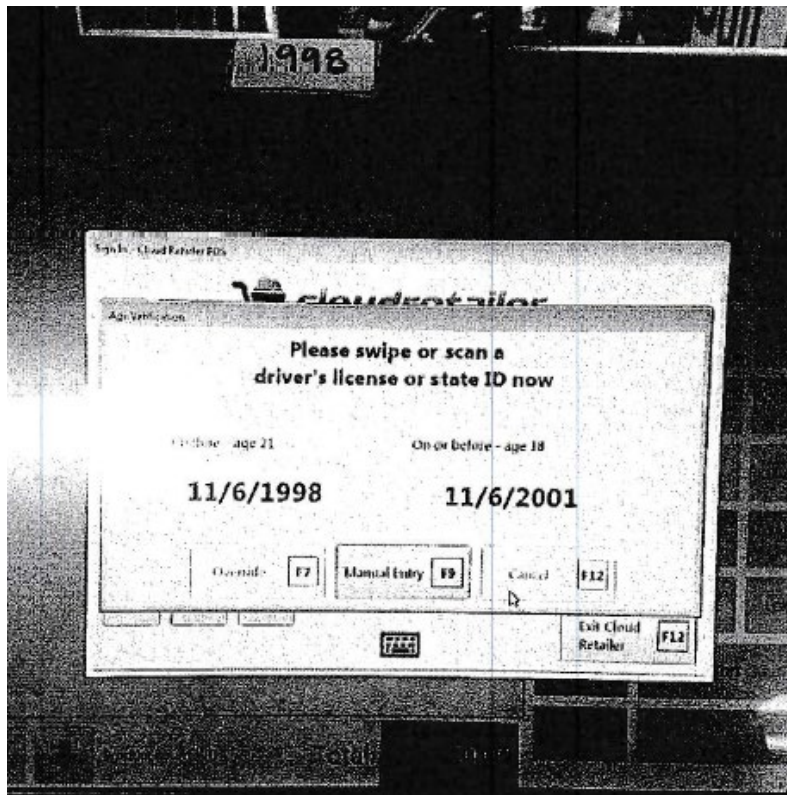
- 1) New Hire Responsible Sales Training before working first shift

The new hire onboarding email directs new hires to take a self-paced training tutorial and provide confirmation of passing a corresponding quiz, this confirmation is tracked for compliance.

- 2) Responsible Sales Training for all employees, once/year

Annually, every fall, all employees take a self-paced training tutorial and provide confirmation of passing a corresponding quiz, this confirmation is tracked for compliance.

- 3) Point of Sale System that requires an ID scan and halts process if invalid ID/age; screen shot below:



- 4) Employee Handbook describing the importance of and implications, excerpt below:

Carding Policy and Legal Sales Policy

*The most important part of TTL's business is completing legal alcohol and tobacco sales in compliance with Minnesota law and TTL policy. TTL requires each employee be committed to and diligent in the responsible sale of alcoholic beverages and tobacco products. No employee will sell an alcoholic beverage or tobacco product to any person under 21 years of age or to any person who is visibly intoxicated. Key to legal sales success is ensuring that all employees are properly trained on legal sales **before** they are asked to be responsible for making those sales and that all employees receive ongoing support from those in supervisory roles (store managers, assistant managers, and shift leaders) throughout their employment to continue to be comfortable with making those legal sales.*

To achieve the highest level of legal sales success and as a condition of employment, TTL requires each prospective employee to take an online TTL authorized legal sales class and pass a corresponding test. During the employee's first shift, a supervisor responsible for training the new employee must review the New Hire Checklist with the new employee and gain the employee's acknowledgment signature and initials on the document. The New Hire Checklist is used in part to provide further training to new employees on completing legal sales (including proper carding procedures) per TTL's policies and Minnesota law. Two times per year each employee (unless approved by management) will also be required to attend in person legal sales classes. Any employee that appears to struggle with understanding the law or TTL policy may be required to take additional training or face additional disciplinary measures. Failure to follow legal sales and carding policies and/or failure to take required education may result in discipline up to and including termination.

At no time should any TTL employee engage in a sale to a customer if that employee is uncomfortable with the sale or if they suspect an illegal purchase is being attempted by that customer. Employees are required to ask supervisors for assistance if they are uncomfortable with a sale or suspects the customer may be underage or intoxicated. Supervisors are responsible for oversight of all transactions occurring in their store. Failure of an employee to ask for help does not remove the supervisor's accountability. In situations where a transaction necessitates supervisor intervention (employee asks for assistance, new employee needing additional training, employee appearing to need any type of assistance even if they did not ask for help, etc.), the assisting supervisor must offer additional training to the employee by taking over the transaction for that employee and starting it from the beginning as if the customer was newly in front of the supervisor. Starting a transaction from the beginning includes but is not limited to verifying that the sale is a legal one by verifying the customer's age. The purpose of taking over the transaction from the beginning is to ensure that the experienced supervisor is offering additional training for the employee and to further achieve legal sales success. Any employee that participates in any way in a sale to an underage person or intoxicated person (including supervisors) is subject to immediate discipline that may include termination.

- 5) Incentives, defined in employee handbook, excerpt below:

Bonus Pay

Legal Sales Bonus

*All store employees (age 21 or older) are eligible to earn a bonus based on company-wide Legal Sales. Any incident of a sale to a minor, obviously intoxicated person, or a failed compliance check will forfeit this bonus for **all** eligible employees. Eligible employees will receive communication annually on the bonus payout. Legal Sales Bonus, if earned, is paid out no later than the first full payroll cycle following year-end. If an employee quits, is not in active status, or is terminated prior to the bonus payout, no payout will occur for that employee.*

Additionally, eligible employees that successfully pass a regulatory compliance check or successfully prevent an attempted purchase by an underage person will receive a bonus of \$350 and \$100 respectively in gross taxable income on their next paycheck.

Hours of Operation:

In general, we propose to be opened all hours permitted by law, but actual hours will vary depending on the market. We do propose to be open on Sunday, for all hours permitted by law. We do not anticipate the on-sale wine bar to be open past midnight.

Entertainment:

In time, we intend to host private parties and/or provide live music; this is not planned for opening. Entertainment would be externally sourced and provide portable sound equipment. We would work with the city, in advance of initiating entertainment, to ensure we are operating within city ordinances.

Menu/Grocery:

Specific menu items will fit into the following categories: see concept menu:

Brunch: Continental – Pastries, Fruit, Eggs,

Lunch: Deli – Salads, Sandwiches, Panini, Flatbreads

Dinner: Charcuterie & Cheese boards, Flatbreads, Salads, Desserts

Grocery Categories:

Oils: EVOO, flavored olive, nut-based; category will include an emphasis on oil from wineries

Vinegars: fruit, balsamic, herb and classic wine vinegars

Bar & Cocktail Mixers: cherries, mixers, bitters, salts, glasses, barware, bottle openers

Sauces: ready-made sauces, pesto, dressings, and dips - including tapenades

Pickles & Condiments: mustards, BBQ sauces, hot sauces, flavored humus assortment

Pasta, Grains & Legumes: internationally sourced pasta and grains

Preserves & Honey: assortment of jams, preserves, marmalades and single varietal honey

Cheese: large assortment of hand-crafted cheese from around the world

Cured Meats, Fish & Pate: cured meats, fish & free-range charcuterie from US artisan producers

Pastries/Esspresso: fresh baked pastries and espresso bar

Chocolates: packaged truffles, dark and milk chocolates from around the world

Appearance & Operation of Premises:

Top Ten Liquors will operate its retail store in compliance with all local, state and federal laws; providing a safe, convenient shopping experience to the Minnetonka community. Top Ten Liquors ensures its stores are well lit and well maintained with security cameras detecting activity on the interior and exterior of the building.

As additional assurance, our attached lease agreement holds Top Ten Liquors to Use Covenants (Section 3) and Maintenance and Repair (Section 8), including the right of the Landlord to make necessary repairs on Top Ten Liquor's behalf and at Top Ten Liquor's expense.

Top Ten Liquor's employees are onsite 30 minutes before and after opening, these hours would be used to keep the store in orderly appearance. If maintenance is needed, store managers promptly work with corporate employees to schedule service or repair.

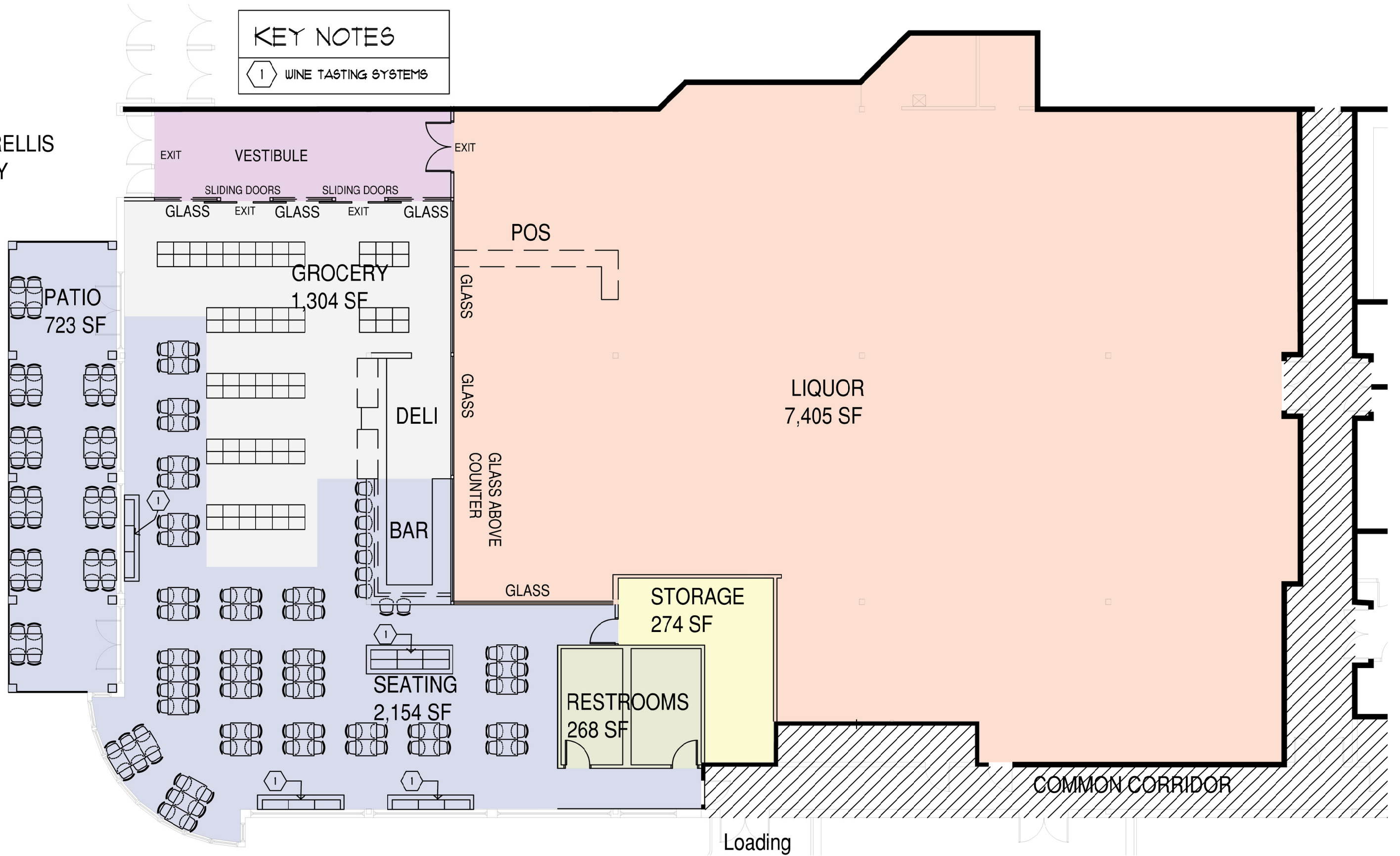
Noise Management Plan:

Top Ten Liquors will utilize typical retail sound systems to provide ambient music in store/restaurant, no permanent sound amplification equipment is planned. Please see **Entertainment** section for our plan to address noise considerations.

KEY NOTES

1 WINE TASTING SYSTEMS

NEW TRELLIS
CANOPY





1641 Plymouth Rd
Minnetonka, MN 55305



architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.tanek.com



1641 Plymouth Rd
Minnetonka, MN 55305



architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.tanek.com



1641 Plymouth Rd
Minnetonka, MN 55305



architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.taneek.com



1641 Plymouth Rd
Minnetonka, MN 55305

tanek

architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.tanek.com



1641 Plymouth Rd
Minnetonka, MN 55305

tanek

architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.tanek.com



1641 Plymouth Rd
Minnetonka, MN 55305

tanek

architecture specialty millwork virtual vision project management
118 E. 26th Street Suite 300 Minneapolis, MN 55404
P:612-879-8225 F:612-879-8152
www.tanek.com



WINESIDE

wine bar & grocery

APPETIZER

Baked Brie	\$18
Blue Cheese Potato Chips	\$10
Braised Short Rib Tacos	\$14
Roasted Brussels Sprouts	\$10
Seasonal Hummus	\$15
Smoked Salmon Sliders	\$15

SOUP

Soup of the Day	\$8
-----------------	-----

SALAD - \$15

Chicken Caesar Salad
Chopped Salad
Power Grain Salad

FLAT BREADS

Apple N'Brie Flatbread	\$20
Cured Meat Flatbread	\$20
Margherita Flatbread	\$15
Roasted BBQ Chicken	\$17

CHEESE CHARCUTERIE

Cheese Plate

small	\$14
medium	\$24
large	\$20

Cheese Flights varies

Charcuterie

Small	\$16
Medium	\$26
Large	\$32

ARTISAN SANDWICH

Turkey Pesto	\$15
Caprese	\$15
Muffuletta	\$15
Chicken Salad	\$15
Brie on Baguette	\$15
Turkey Gruyere	\$15
Smoke Salmon	\$15
BLT	\$15
Veggie	\$15
Roast Beef	\$15

OPEN DAILY • 9am - 10pm
winesideexperience.com



WINESIDE

wine bar & grocery

WINE LIST

SPARKLING

	1oz	2.5oz
ENZA Prosecco Veneto Italy N.V.	\$1.99	\$2.99
SCHRAMSBURG Blanc de Noirs Brut Calistoga California N.V.	\$4.99	\$8.99
ROEDERER ESTATE Brut Rose Anderson Valley California N.V.	\$1.99	\$3.99
BEAU JOIE Brut 'Special Cuvee' Champagne France N.V.	\$4.99	\$8.99
BEAU JOIE Brut Rose 'Special Cuvee' Champagne France N.V.	\$4.99	\$8.99
MOËT & CHANDON 'Brut Impérial' Champagne France N.V.	\$8.99	\$18.99
MOËT & CHANDON 'Brut Impérial Rose' Champagne France N.V.	\$8.99	\$18.99
DOM PÉRIGNON Brut Champagne France 2006	\$31.99	\$64.99

WHITE

	1oz	2.5oz
Pinot Grigio CANTINA ANDRIANO Alto Adige Italy 2016	\$1.99	\$3.99
Sauvignon Blanc WARWICK Stellenbosch South Africa 2016	\$1.99	\$3.99
Sauvignon Blanc HENRI BOURGEOIS Sancerre France 2016	\$2.99	\$5.99
Sauvignon Blanc CAKEBREAD Napa Valley California 2016	\$2.99	\$5.99
Riesling S.A. PRUM KABINETT Wehlener Sonnenuhr Mosel Germany 2013	\$3.99	\$6.99
Chardonnay ICONOCLAST Russian River California 2015	\$2.99	\$5.99
Chardonnay FOLEY Santa Rita Hills California 2015	\$3.99	\$6.99
Chardonnay BROCARD 1er Cru Chablis France 2015	\$3.99	\$7.99

ROSE

	1oz	2.5oz
Grenache & Mourvedre WITHERS El Dorado County California 2016	\$2.99	\$4.99



WINESIDE

wine bar & grocery

RED

	1oz	2.5oz
Pinot Noir BROADLEY Willamette Valley Oregon 2015	\$1.99	\$3.99
Pinot Noir ROW ELEVEN Russian River Valley California 2015	\$3.99	\$8.99
Pinot Noir DUMOL Russian River Valley California 2013	\$6.99	\$12.99
Grenache Blend PRESTON 'L.P.' Sonoma County California 2014	\$2.99	\$5.99
Zinfandel SEGHEGIO Sonoma County California 2015	\$2.99	\$5.99
Syrah BAKER LANE Sonoma Coast California 2014	\$2.99	\$4.99
Malbec ACHAVAL FERRER Mendoza Argentina 2016	\$2.99	\$5.99
Merlot PASO CREEK Paso Robles California 2015	\$1.99	\$3.99
Cabernet Sauvignon AVALON Napa Valley California 2013	\$1.99	\$3.99
Cabernet Sauvignon ICONOCLAST Stags Leap District California 2014	\$2.99	\$6.99
Cabernet Sauvignon CRAIG AFFINITY Napa Valley California 2014	\$4.99	\$9.99

LOCAL

	1oz	2oz		1oz	2.5oz
Cannonball Cabernet Sauvignon	\$1.99	\$3.99	Winehaven Cinnamead	\$1.99	\$3.99
Winehaven Just Peachy	\$1.99	\$3.99	Winehaven Rhubarb Wine	\$1.99	\$3.99
Winehaven Pumpkin Wine	\$1.99	\$3.99	Winehaven Strawberry Rhubarb	\$1.99	\$3.99
Winehaven Lakeside Red	\$2.99	\$4.99	Winehaven Deer Garden Red	\$2.99	\$5.99
Winehaven Honeywine Stinger	\$0.99	\$2.99	St Croix Vineyards Seyval	\$1.99	\$3.99
Winehaven Riesling	\$1.99	\$3.99	St Croix Raspberry Infusion	\$1.99	\$2.99
Winehaven Raspberry Wine	\$1.99	\$3.99	St Croix Vineyard Itasca	\$1.99	\$4.99
Winehaven Cranberry Wine	\$1.99	\$3.99	St Croix Vineyards Vignoles	\$1.99	\$3.99

DESSERT WINES

	1oz	2.5oz
CHÂTEAU GRAND-JAUGA Grand Vin de Bordeaux 2011	\$2.99	\$4.99
FAR NIENTE 'Dolce' Napa Valley 2007	\$4.99	\$9.99
HONIG 'Late Havest' Napa Valley 2012	\$8.99	\$16.99
JOSEPH PHELPS 'Eisrebe' Napa Valley 2009	\$3.99	\$8.99



WINESIDE

wine bar & grocery

INTERNATIONAL

	1oz	2.5oz
ADAMI Prosecco, Veneto Italy N.V.	\$2.99	\$4.99
CA DEL BOSCO 'Cuvée Prestige' Franciacorta Brut Italy N.V.	\$5.99	\$10.99
DOMAINE CARNEROS Brut Napa California 2011	\$3.99	\$8.99
ENZA Prosecco Veneto Italy N.V.	\$1.99	\$2.99
'J' CUVÉE 20 Brut Sonoma California N.V.	\$4.99	\$9.99
'J' BRUT ROSÉ Russian River California N.V.	\$5.99	\$10.99
RAVENTOS I Blanc de Nit Brut Barcelona Spain 2015	\$2.99	\$5.99
ROEDERER ESTATE Brut Anderson Valley California N.V.	\$1.99	\$3.99
SCHRAMSBURG Blanc de Noirs Brut Calistoga California N.V.	\$4.99	\$8.99

CHAMPAGNE

	1oz	2oz		1oz	2.5oz
BEAU JOIE Brut Special Cuvée N.V.	\$4.99	\$8.99	LAURENT PERRIER Brut Rosé N.V.	\$9.99	\$19.99
BEAU JOIE Demi-Sec N.V.	\$4.99	\$8.99	LOUIS ROEDERER Brut Premier N.V.	\$4.99	\$9.99
BEAU JOIE Brut Rose Special Cuvée N.V.	\$4.99	\$8.99	LOUIS ROEDERER 'Cristal' Brut 2006	\$36.99	\$73.99
BILLECART-SALMON Brut N.V.	\$7.99	\$14.99	LOUIS ROEDERER Rosé 2008	\$9.99	\$18.99
BILLECART-SALMON Rosé N.V.	\$11.99	\$23.99	LOUIS ROEDERER Cristal Rosé Brut 2005	\$81.99	\$163.99
BOLLINGER 'Special Cuvée' Brut N.V.	\$9.99	\$19.99	MOËT & CHANDON 'Brut Impérial' N.V.	\$8.99	\$18.99
BOLLINGER 'La Grande Année' Brut 2005	\$18.99	\$36.99	MOËT & CHANDON Brut 2006 'Grand Vintage'	\$11.99	\$23.99
BRUNO PAILLARD 'Assemblage' Brut 2002	\$9.99	\$19.99	MOËT ET CHANDON 'Nectar Impérial' Demi-Sec N.V.	\$8.99	\$17.99
BRUNO PAILLARD 'Réserve Privée' Brut N.V.	\$10.99	\$21.99	MOËT & CHANDON 'Brut Impérial Rose' N.V.	\$8.99	\$18.99
DOM PÉRIGNON Brut 2006	\$31.99	\$64.99	NICOLAS FEUILLATTE Brut N.V.	\$4.99	\$8.99
DOM PERIGNON Rosé 2004	\$56.99	\$113.99	PERRIER-JOUET 'Belle Époque' Brut 2007	\$24.99	\$49.99
GOSSET 'Excellence' Brut N.V.	\$5.99	\$11.99	PERRIER-JOUET 'Belle Époque' Rosé 2004	\$44.99	\$88.99
GOSSET 'Grand Rosé' Brut N.V.	\$10.99	\$20.99	RUIINART 'Blanc de Blancs' Brut N.V.	\$12.99	\$24.99
HEIDSIECK Monopole 'Blue Top' Brut N.V.	\$2.99	\$4.99	TAITTINGER La Française Brut N.V.	\$4.99	\$8.99
HENRIOT 'Souverain' Brut N.V.	\$17.99	\$36.99	VEUVE CLICQUOT 'Yellow Label' Brut N.V.	\$5.99	\$11.99
KRUG 'Grande Cuvée' Brut N.V.	\$32.99	\$65.99	VEUVE CLICQUOT 'La Grande Dame' Brut 2006	\$25.99	\$52.99



WINESIDE

wine bar & grocery

WHITE

	1oz	2.5oz		1oz	2.5oz
CHARDONNAY			SAUVIGNON BLANC		
Oregon			CADE Napa Valley 2013	\$4.99	\$8.99
DOMAINE DROUHIN 'Arthur' Dundee Hills 2014	\$4.99	\$8.99	CAKEBREAD Napa Valley 2016	\$1.99	\$3.99
			DUCKHORN Napa Valley 2016	\$6.99	\$12.99
California			GROTH Napa Valley 2015	\$2.99	\$5.99
CARPE DIEM Anderson Valley 2008	\$1.99	\$3.99	MATTHEW BRUNO Napa Valley 2012	\$4.99	\$8.99
RIDGE Santa Cruz 2012	\$6.99	\$12.99	RUDD Napa Valley 2013	\$3.99	\$6.99
HAHN Santa Lucia Highlands 2011	\$2.99	\$5.99	WILLIAM HILL Napa Valley 2016	\$1.99	\$4.99
ROAR 'Sierra Mar' Santa Lucia Highlands 2015	\$4.99	\$8.99	CAPTÛRE 'Tradition' Sonoma & Lake County 2012	\$4.99	\$8.99
ALLEY Arroyo Grande 2015	\$3.99	\$6.99	MERRY EDWARDS Russian River Valley 2015	\$3.99	\$6.99
CALERA Central Coast 2008	\$1.99	\$4.99		\$3.99	\$6.99
BREWER-CLIFTON Santa Rita Hills 2013	\$4.99	\$8.99	OTHER WHITE VARIETALS	\$4.99	\$9.99
FOLEY Santa Rita Hills California 2015	\$3.99	\$6.99	Abraxas ROBERT SINSKEY Carneros 2014	\$0.01	\$0.01
SANFORD Santa Rita Hills 2013	\$3.99	\$6.99	Orgia ROBERT SINSKEY Carneros 2014	\$3.99	\$7.99
			Grenache & Mourvedre WITHERS El Dorado	\$9.99	\$20.99
Sonoma County			Pinot Grigio LONGORIA Santa Barbara 2016	\$4.99	\$8.99
CAPTÛRE 'Ma Vie Carol' Alexander Valley 2011	\$4.99	\$9.99	Pinot Gris ELK COVE Willamette Valley 2012	\$2.99	\$5.99
JORDAN Russian River Valley 2014	\$0.01	\$0.01	Pinot Gris ETUDE Carneros 2015	\$8.99	\$17.99
EDGE HILL 'Bacigalupi' Russian River Valley 2009	\$3.99	\$7.99	Pinot Gris PONZI Willamette Valley 2012	\$7.99	\$16.99
GARY FARRELL Russian River Valley 2013	\$9.99	\$20.99	Riesling CHATEAU MONTELENA Potter Valley 2008	\$2.99	\$5.99
ICONOCLAST Russian River California 2015	\$4.99	\$8.99	Riesling CHATEAU MONTELENA Potter Valley 2012	\$5.99	\$11.99
LYNMAR 'Qual Hill' Russian River Valley 2013	\$2.99	\$5.99	Riesling CHEHALEM 'Reserve' Oregon 2009	\$4.99	\$10.99
ROCHIOLI Russian River Valley 2014	\$8.99	\$17.99	Riesling POET'S LEAP Columbia Valley 2015	\$4.99	\$10.99
FAILLA 'Keefer Ranch' Sonoma Coast 2014	\$7.99	\$16.99	Gewürztraminer GUNDLACH BUNDSCHU	\$3.99	\$8.99
FLOWERS Sonoma Coast 2015	\$2.99	\$5.99	Blancaneaux RUBICON Rutherford 2009	\$7.99	\$15.99
HANZELL Sonoma Coast 2013	\$5.99	\$11.99	Marsane BELO Napa Valley 2009	\$2.99	\$5.99
HANZELL 'Sebella' Sonoma Coast 2014	\$4.99	\$10.99	Roussane RENARD Santa Ynez Valley 2007	\$5.99	\$12.99
JOSEPH PHELPS 'Freestone' Sonoma Coast 2013	\$4.99	\$10.99	Semillon ORO EN PAZ Lake County 2015	\$5.99	\$11.99
KISTLER 'Les Noiseteres' Sonoma Coast 2015	\$3.99	\$8.99	Vioignier ROAR 'Sierra Mar' Santa Lucia Highlands	\$8.99	\$17.99
LIOCO Sonoma Coast 2015	\$7.99	\$15.99		\$5.99	\$11.99
PAUL HOBBS Sonoma Coast 2014	\$2.99	\$5.99		\$5.99	\$11.99
	\$5.99	\$12.99	INTERNATIONAL WHITES	\$3.99	\$8.99
Napa Valley			Chardonnay ANTOINE VINCENT		
CAKEBREAD Napa Valley 2015	\$5.99	\$11.99	Bourgogne Blanc France 2012	\$9.99	\$20.99
FAR NIENTE Napa Valley 2015	\$8.99	\$17.99	Chardonnay BROCARD 1er Cru Chablis France 2015	\$2.99	\$5.99
FORMAN Napa Valley 2011	\$5.99	\$11.99	Chardonnay DOMAINE FAIVELEY		
GROTH Napa Valley 2014	\$3.99	\$8.99	Bienvenues Batard-Montrachet Grand Cru France 2010	\$4.99	\$9.99
PAHLMAYER Napa Valley 2014	\$9.99	\$20.99	Chardonnay DOMAINE JEAN-MARC MORET		
PINE RIDGE Napa Valley 2012	\$2.99	\$5.99	Batard-Montrachet Grand Cru France 2005	\$2.99	\$4.99
ROMBAUER Napa Valley 2016	\$4.99	\$9.99	Grenache Gris GERARD BERTRAND		
SAINTSBURY Napa Valley 2014	\$2.99	\$4.99	Pays d'Oc France 2016	\$2.99	\$5.99
STAGS' LEAP Napa Valley 2014	\$2.99	\$5.99	Grenache & Mourvedre GERARD BERTRAND		
WILLIAM HILL Napa Valley 2013	\$1.99	\$2.99	'Hedo' Rose Corbieres France 2016	\$1.99	\$2.99
ZD Napa Valley 2015nd 2016	\$4.99	\$10.99	Sauvignon Blanc HENRI BOURGEOIS		
			Sancerre France 2016	\$4.99	\$10.99



WINESIDE

wine bar & grocery

RED

RED	1oz	2.5oz	CABERNET SAUVIGNON & RED BLENDS	1oz	2.5oz
PINOT NOIR			Napa Valley		
Oregon			CADE Howell Mountain 2014		
DOMAINE DROUHIN Dundee Hills 2014			VIADER Howell Mountain 2014		
BROADLEY Willamette Valley Oregon 2015			CAYMUS 'Special Select' Oakville 2014		
COLENE CLEMENS Willamette Valley 2013			FAR NIENIE Oakville 2014		
SOTER VINEYARDS Willamette Valley 2014			OPUS ONE Oakville 2013		
WILLAKENZIE 'Alette' Willamette Valley 2013			PLUMPJACK Oakville 2013		
WILLAKENZIE Willamette Valley 2013			ROBERT MONDAVI 'Reserve' Oakville 2013		
California			RUDD Oakville 2012		
CARPE DIEM Anderson Valley 2013			SILVER OAK Oakville 2012		
DAVIES Ferrington Vineyard Anderson Valley 2014			TAMBER BEY Oakville 2011		
BRIDLEWOOD Central Coast 2011			BEAULIEU VINEYARD Rutherford 2013		
SANFORD 'Flor De Campo' Santa Barbara 2014			MATHEW BRUNO Rutherford 2012		
BELLE GLOS 'Las Alturas' Santa Lucia Highlands			PROVENANCE Rutherford 2014		
ROAR Santa Lucia Highlands 2016			RUBICON ESTATE 'Rubicon' Rutherford 2010		
ROAR 'Rosella's' Vineyard' Santa Lucia Highlands			QUINTESSA Rutherford 2013		
ROAR 'Pisoni Vineyard' Santa Lucia Highlands 2015			BARNETT Spring Mountain 2014		
Sonoma County			CAIN 'Five' Spring Mountain 2011		
ACACIA Cameros 2015			SPRING MOUNTAIN 'Elivette' Spring Mountain 2012		
ARGUS Cameros 2012			ICONOCLAST Stags Leap District 2014		
ETUDE Cameros 2014			TURLEY St. Helena 2014		
GLORIA FERRER Cameros 2012			AVALON Napa Valley 2013		
RAM'S GATE Cameros 2013			BLACKBIRD "ARISE" Napa Valley 2014		
ROBERT SINSKEY Los Cameros 2013			CHAPPELLET 'Mountain Cuvée' Napa Valley 2014		
SAINTSBURY Cameros 2014			CAIN 'Concept' Napa Valley 2008		
ZD Cameros 2013			CAKEBREAD Napa Valley 2013		
DUMOL Russian River Valley California 2013			CAKEBREAD Napa Valley 2014		
DUTTON GOLDFIELD Russian River Valley 2014			CRAIG AFFINITY Napa Valley 2014		
EMERITUS Russian River Valley 2013			DARIOUSH Napa Valley 2014		
MERRY EDWARDS Russian River Valley 2014			DOMINUS ESTATE Napa Valley 2011		
PORTER CREEK Russian River Valley 2014			FLORA SPRINGS 'Trilogy' Napa Valley 2009		
ROW ELEVEN Russian River Valley California 2015			GAMBLE 'Paramount' Napa Valley 2012		
ALYSIAN by Gary Farrell Sonoma Coast 2014			JANZEN Napa Valley 2013		
FAILLA Sonoma Coast 2014			JOSEPH PHELPS 'Insignia' Napa Valley 2014		
FLOWERS Sonoma Coast 2014			MOUNT VEEDER Napa Valley 2013		
GUNDLACH BUNDSCHU Sonoma County 2014			THE PRISONER Napa Valley 2013		
JOSEPH PHELPS 'Freestone' Sonoma Coast 2014			PALMAZ Napa Valley 2012		
LYNMAR Sonoma Coast 2013			SINGNORELLO Napa Valley 2014		
RADIO-COTEAU 'La Neblina' Sonoma Coast 201			SINSKEY 'POV' Napa Valley 2013		
			STAG'S LEAP 'Artemis' Napa Valley 2015		



WINESIDE

wine bar & grocery

WINE COCKTAILS - \$12

French 75- Gin, Lemon Juice, Simple Syrup, Sparkling Wine

St. Germain Spritz

Aperol Spritz

Prosecco Bellini

Cava Mimosa

Sauvignon Blanc Spritz

New York Sour- Bourbon, Lemon Juice, Simple Syrup, Red Wine

Red Sangria- (Frozen Seasonal Option)

Rose Sangria- (Frozen Seasonal Option)

White Sangria- (Frozen Seasonal Option)

COCKTAILS - \$14

Midwest Greyhound

Bees Knees

Hemingway Daiquiri

Paper Plane

Smoky Negroni

Vieux Carre

Mezcal Old Fashion



WINESIDE

wine bar & grocery

BEER

DRAFT BEER

TRUMER PILSNER BERKLEY CA GERMAN STYLE PILSNER ABV 4.9%	\$10
FORT POINT KÖLSCH SAN FRANCISCO CA LIGHT & CRISP KÖLSCH STYLE ALE ABV 4.6%	\$10
ANCHOR BREWING GO WEST IPA SFO CA WEST COAST INDIA PALE ALE ABV 6.7%	\$12
UNIBROUE MAUDITE QUEBEC CANADA BELGIAN STRONG DARK ALE ABV 8%	\$14

BOTTLED BEER

ANCHOR STEAM AMBER LAGER	\$8
ANCHOR STEAM BLONDE ORANGE BLONDE	\$12
ANCHOR STEAM MANGO WHEAT	\$12
CHIMAY 'BLUE LABEL'	\$11
ANDERSON VALLEY OATMEAL STOUT	\$8
BUD LIGHT	\$7
COORS LIGHT	\$7
CORONA	\$8
HEINEKEN	\$8
STELLA ARTOIS	\$8
BUCKLER NON ALCOHOLIC	\$7
SCHILLING'S HARD CIDER	\$7

LOCAL BEER

BAUHAUS WONDERSTUFF	\$2	FAIR STATE IPA	\$3
PRYES MAIN SQUEEZE	\$3	FAIR STATE MIRROR UNIVERSE	\$5
PRYES MIRACULUM MIDWEST IPA	\$3	FULTON LONLEY BLONDE	\$2
FAIR STATE HEFEWEIZEN	\$3	INDEED MEXICAN HONEY	\$4

September 26, 2021

City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Dear City officials and Council members:

I am writing to voice my concerns over the application by Top Ten Liquors for both a On and Off Sale license in the city for the proposed Wine Bar and combine Liquor store. As a current liquor retailer in the City, I am continually told by various Liquor distributors that many items I wish to carry at my store are unavailable to me because the products are “allocated” to On sale Licensees (Bars and Restaurants). I am concerned that the dual-purpose location will create an unfair advantage for this type of proposed business to the traditional liquor establishments in the community. The proposed business entity would potentially be able to procure products under the On- sale entity to then be sold at the Off-Sale and vice versa. How does the city plan to monitor and audit such a situation that potentially creates an unfair advantage compared to the other community retailers? Can products be simply transferred between the two separate license holders?

I also would like to highlight one of the reasons given by a Council Member to deny Target’s application for a liquor license was I believe the quote “looking out for the mom-and-pop establishments.” In this same spirit, if the City Council was truly concerned about remaining equitable, they should consider the potential unfair advantage potentially being created by this type of dual-purpose establishment and adding to the overall square footage of liquor availability in the city.

Sincerely,

Stephen Smitley
Strong Liquor and Wine



**City Council Agenda Item 14A
Meeting of October 4, 2021**

Title: Ordinance regarding accessory dwelling units in residential zoning districts

Report From: Susan Thomas, AICP, Assistant City Planner

Submitted through: Mike Funk, Acting City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

Since 1986, attached accessory dwelling units (ADUs) – located *within or attached to* single-family homes – have been allowed in Minnetonka by conditional use permit. Staff is now proposing an ordinance amendment to allow detached ADUs by conditional use permit.

Recommended Action

Staff recommends the council adopt the ordinance amending city code to allow for detached accessory dwelling units.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
 Sustainability & Natural Resources Livable & Well-Planned Development
 Infrastructure & Asset Management Community Inclusiveness
 N/A

Statement: Minnetonka has long recognized the value of providing various housing options to existing and potential residents. This is generally reflected in the housing goals and policies outlined in the city’s comprehensive guide plan and the housing work plan. It is also specifically reflected in the strategic profile. One of the key strategies of the profile is to “implement programs and policies to diversify housing and increase affordable housing options.”

Financial Consideration

Is there a financial consideration? No Yes
Financing sources: Budgeted Budget Modification New Revenue
Source Use of Reserves Other

Community Feedback

In Feb. 2021, the proposed ADU ordinance was outlined in a short [Minnetonka Memo](#) article and a minnetonkamn.gov [webpage](#). (The webpage remains active.) Feedback was requested in both the article and on the webpage. Since Feb., staff has received just 23 community responses. Twenty-one respondents support allowing detached ADUs by conditional use permit; two respondents were opposed, citing concerns about density and renters in single-family neighborhoods. The responses are attached to this report.

City Council Introduction

On [Dec. 7, 2020](#), the city council introduced a draft ADU ordinance. Councilmembers generally supported the concept of detached ADUs. Some members suggested that the ordinance should be prescriptive, for example, defining where ADU driveways and doorways could be located; other members suggested the ordinance should include broader conditional use permit standards. ([Minutes](#).)

Planning Commission Consideration

The planning commission discussed the draft ADU ordinance on [Aug. 19, 2021](#). (Minutes are attached) The commission generally supported the ordinance but suggested the following changes:

1. The draft ordinance would allow detached units up to 950 square feet or 35 percent of the floor area of the principal unit, whichever is less. Commissioners suggested that the maximum area be increased to 1,000 square feet or 35 percent of the floor area of the principal unit, whichever is less. This larger number would reflect the size allowed – simply by building permit – for detached garages or other similar accessory structures.
2. Inclusion of some general tree protection standards.
3. Requiring higher energy efficiencies for ADUs than required for single-family homes.

Following Commission Consideration

Staff agreed with the size and tree suggestions of planning commissioners and has since updated the draft ordinance to include these points. While understanding the broader goals of sustainability and resiliency underlying the energy efficiency suggestion, the city cannot enforce stricter building standards than the state building code. As such, staff did not include this in the ordinance presented for the council consideration. The full draft ordinance amendment is attached to this report. The chart below summarizes.

Objective Standards		Attached	Detached
General	Zoning District	R-1, R-1A, and R-2	R-1 and R-1A
	ADUs per Property	1	1
	Ownership	May not be separated in ownership from principal unit	May not be separated in ownership from principal unit
		Owner must reside in one unit	Owner must reside in one unit

Objective Standards		Attached	Detached
General	Parking	Provided on a paved surface or covered/enclosed space	Provided on a paved surface or covered/enclosed space
	Access	No additional curb cut, unless allowed by driveway ordinance	No additional curb cut, unless allowed by driveway ordinance
	Registration	Must be registered with Mtka Police and Fire Departments	Must be registered with Mtka Police and Fire Departments
Design and Construction	General Location	–	Behind the rear building line of the principal unit
	Conversion of Space	Must maintain space for two-stall garage on site	Must maintain space for a two-stall garage on site
	Max. Floor Area	950 sq. ft. or 35% of the principal structure, whichever is less*	1,000 sq. ft. or 35% of the principal structure, whichever is less*
	Max. Height	Principal unit limit, as outlined in the zoning district	Highest point of the principal structure*
	Min. Setbacks	Principal unit setbacks, as outlined in the zoning district	Height of the structure, but not less than 15 ft.
	Max. Bedrooms	–	2
	Foundation	Permanent	Permanent
	Utilities	Shared service lines with principal unit	Shared service lines with principal unit
	Codes	Must meet all building, electrical, mechanical, and plumbing	Must meet all building, electrical, mechanical, and plumbing
Subjective Standards		Attached	Detached
Appearance		Must maintain the single-family appearance of the principal dwelling	Must maintain the residential character of the lot
Natural Site Features		–	Must be located to preserve existing, natural site features to the extent practicable.
*		Larger or taller ADUs may be approved if the additional size or height would not result in undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider things such as the size of the property; the location of the ADU relative to homes on adjacent properties; whether the ADU would be reasonably screened from adjacent properties by existing or proposed vegetation, elevation changes, or linear distance; whether a similarly-sized, non-ADU structure could be constructed in the location proposed without a conditional use permit or variance; or any other characteristic the city considers important or unique.	

Staff Comment

Objective standards provide specific direction and establish clear expectations for existing and future property owners and their neighbors. Conversely, subjective standards leave much open to individual interpretation; in some cases, existing and future property owners and their neighbors are left with ambiguity.

Staff is comfortable with the subjective standards included in the draft ADU ordinance, as there are “baselines” from which compliance with the standards can be considered. In the case of ADU appearance, the “baselines” are the existing appearance of the lot or the existing residential character of the lot. In terms of size and height, the ordinance contains an objective

standard that must be met and then allows for an upward deviation from that standard if the subjective standard is met. (In other words, if the subjective standard is not met, an applicant simply doesn't "get" a *larger* or *taller* ADU.)

From:
Sent: Thursday, January 28, 2021 9:45 AM
To: Susan Thomas <sthomas@minnetonkamn.gov>
Subject: detached adu comments

Ms. Thomas,

First we'd like to say my wife and I are in favor of detached ADUs.

As we read the proposed guidelines however we did want to comment on the footprint limit to 35% of the existing structure. Even assuming this includes the garage in the existing structure (unsure what the definition of "footprint" is- does it include items such as the driveway and patios), this footprint limit would seem to force detached ADU's to be multi-story which is not desirable if the ADU is to be used for elderly relatives or those with disabilities where a single story structure is better suited. One solution to this may be to look at permitting larger footprint detached ADUs based on the size of the lot (say half an acre or larger) or the existing footprint as a percentage of the lot size.

-----Original Message-----

From:

Sent: Wednesday, January 27, 2021 7:51 PM

To: Susan Thomas <sthomas@minnetonkamn.gov>

Subject: ADU Input

Hi Susan,

I am glad the city has finally taken up the ADU issue. Many municipalities have already done so.

We have contacted you several times about in-law suites and attached ADUs. It seems that the vast majority are without permit. I also know of some detached garage ADUs in Minnetonka. As they are newer, I assume they are not permitted either.

For me it just doesn't make sense to have restrictive laws that people just go around. Asking for a conditional-use permit is ridiculous for in internal ADU (which is why no one bothers).

As for detached ADUs, why are they different than a garage or a shed? Do we need a conditional-use permit for either one? Adding the CUP requirement means for most projects an additional year to complete.

Times have changes and so have people's lifestyles. Many Minnesotans head south for the winter. Often it is too difficult to keep a household in MN and another state. I have a corporate housing business and rent to many snow birds so am very familiar with the situation. They would prefer to stay with their children but lack space. Some have made mother-in-law suites - space permitting (mostly un-permitted).

Detached ADUs are often the only option.

We also have many relatives, in-laws and friends that come and visit. We want them close by but not too close :)

I think it is silly to worry about ADUs being a nuisance. Any property can be a nuisance.

Further, I hope the city looks into allowing prebuilt ADUs. They end up being a fraction of the cost. But more importantly, they can easily be hauled away when not needed anymore. Some cities have shied away from modular anything. Sure, mobile homes are ugly and a blight. But there are many ADUs that can be matched the existing home's style (which I think should be a requirement for ADUs).

Kind Regards,

Susan Thomas

From:
Sent: Wednesday, January 27, 2021 6:02 PM
To: Susan Thomas <sthomas@minnetonkamn.gov>
Subject: ADU's

Just visiting some friends in California, they had a beautiful guest house (ADU) we just loved it (see picture below) They can provide extra income for our residents, provide lower cost housing for our college children and somewhere to put my grumpy father-in-law :) so he can have independent living one level living) !

Thanks for asking for our input!



Susan Thomas

From:
Sent: Thursday, January 28, 2021 8:35 AM
To: Susan Thomas
Subject: ADU's

The proposal is a good start, but why not open it up to other options such as off grid tiny houses? Solar power, composting toilets, and water cisterns, would give the homeowner options if they do not have the capital to pay a contractor to dig up the yard and hook up to city water - sewer.

We need more protected bicycle lanes, trails, and single track!!!

Thank you,

Susan Thomas

From:
Sent: Thursday, January 28, 2021 10:57 AM
To: Susan Thomas
Subject: Detached ADU Proposal

Greetings Ms. Thomas,

I would like to submit my opinion in favor of a detached ADU amendment as mentioned in the current edition of MinnetonkaMemo. My wife and I moved to Minnetonka 10 years ago, and have found the prohibition of detached ADUs to be one of our only disappointments with city regulations. Both my wife and I have aging parents, and we are fortunate that they are able to live independently so far. At some point, we foresee that our parents' function will decline, and we would like to be able to provide for their needs while giving them the dignity of their own independent living space on our property. As a hospital physician, I see this happening A LOT in the patients and their families whom I care for at Methodist Hospital. The decision to care for our parents would be much easier - and our parents would be much more willing to allow us to care for them - if we were able to build a detached accessory dwelling unit for them. There is a possibility that we may need to leave Minnetonka and move to the area where they live if Minnetonka cannot accommodate our needs.

I agree with everything in the proposed Conditional-Use Permit Standards, except the stipulation that the detached ADU "Must be located behind the rear building line of the home" — our house is located on a hillside and the most logical and appropriate placement of an ADU on our property would be adjacent to our driveway.

Thank you for accepting my input. I look forward to participating in further discussion about this issue, which I feel will benefit many working families with aging parents who find themselves in a similar situation.

Respectfully,

/

-----Original Message-----

From:

Sent: Thursday, January 28, 2021 7:31 PM

To: Susan Thomas <sthomas@minnetonkamn.gov>

Subject: Detached ADU's

Susan,

I would be supportive of detached ADU's. I see this similar to residents who want to have a large shed in their yard (although the detached ADU would likely be larger). Also, in some cases a detached ADU might look better than if attached to a home.

Susan Thomas

From:
Sent: Friday, January 29, 2021 3:30 PM
To: Susan Thomas

Hi Susan,

I typically don't read thru the Mtka newsletter much, but this caught my eye and is a subject that is pretty close to me. While I am not necessarily a fan of converting a single family lot to a multifamily lot for rental purposes, where you now have two units to rent instead of 1, I do think that in the current market conditions where its impossible to find a liveable house without updating needs in Mtka and Wayzata, there has to be some way to support new young families moving in and a way to support the elderly so they don't have to move into Sr. housing. A detached small second liveable space is a great way to do this and preferred over attached or some sort of shared space, especially when considering parents, inlaws, other relatives that find themselves out of a job, on hard times etc.

I have two homes in Mtka. The first one we bought which has been rented to the same young family for nearly a decade now, and the current one we live in. This first house has a very large garage in the back. When buying it, I tore down several lean toos to make it match the property better. It has a legal driveway. My goal was always to convert that to living space for my elderly parents and either let them live there with the current renters or move back into the house which we likely will do to downsize when our kids move out to college (or at least one).

I travel a lot for work. In most countries there is multi generation communal living. This is a great way to move into that here. I truly believe it would be one of the greatest impacts on our housing problems in the US and affordability in the western suburbs. Research also shows younger families are smaller than the past with the average family size falling below 2 children now. Comparatively to when a lot of homes were built in Mtka that could support this...1/2 to 1 acre lots with 1950s ramblers (our first house) the person density would likely not even go up as families in the 60s were much bigger and now you are brining in maybe two folks.

In summary, I think this is a very good idea considering housing costs, the economy, aging populations, crazy rising cost of sr housing. To be able to check on your parents 50 feet behind your house morning and night could effectively replace portions of assisted living. We like it out here, I don't see this detracting from this great city at all.

Have a great weekend.

Susan Thomas

From:
Sent: Saturday, January 30, 2021 11:52 AM
To: Susan Thomas
Subject: ADU survey

Hi Susan,

I'm pleased to see that Minnetonka is considering changing the rules to allow detached units. I've always felt that with our larger single family lots this is a viable option for property owners.

My wife and I are in the very early stages of considering what our retirement may look like and adding an ADU to our place for a caretaker/family member or occupying it ourselves has been one thought.

Additionally, in our travels over the last few years we've stayed in many ADU units - either attached or detached - via AirBnB and others. I did not see any reference to this possibility in the one page doc but would encourage you and your department to get out in front of this issue as soon as possible. I am sure that there are many communities around the country that have navigated this issue already and have found a good balance of governance and active community oversight/dialog in order to make this a viable alternative. This would not be our primary motivation for proceeding with an ADU but we would certainly like this as a possibility.

I look forward to hearing more about this issue in the coming months.

Best Regards,

Susan Thomas

From:
Sent: Sunday, January 31, 2021 12:09 PM
To: Susan Thomas
Subject: Re: ADU

ADUs

I hope the Minnetonka planners will research and consider options such as incinolet or well-designed composting toilet options which could be included with additional inspection criteria.

With the amount of McMansions all over the city, the ADUs will be an excellent step forward, especially with practical, environmentally healthy options.

I live in Minnetonka.

On Sun, Jan 31, 2021 at 9:57 AM

wrote:

Dear Ms. Thomas,

I am excited to hear that Minnetonka is considering ADUs. I am 100% for this.

I will check out the website.

--

Susan Thomas

From:
Sent: Sunday, January 31, 2021 10:49 AM
To: Susan Thomas
Subject: ADU Feedback

Dear Susan,

Thank you for looking for input on the proposed ADU Ordinance, this great that it is being considered in Minnetonka.

I am in full support of allowing more ADU's.

Regarding the proposed changes I would offer the following comments:

- Allow as a permitted accessory use, not a conditional use permit.
- I'd suggest removing the residency requirement. While understandable (and maybe necessary to get the ball rolling on this), it creates extremely challenging situations for people if they suddenly need to switch jobs or otherwise move away from their homes. I know in other places in the country, when residency requirements were lifted, ADU adoption increased significantly.
- I'd suggest adjusting the requirement that a detached ADU must be behind the principle structure. I would seem that there are situations where an ADU on the side of the home might be just fine. There are also situations where an ADU in front of the home could work just fine as well. I think of what appears to be one at 106 Vinewood La N in Plymouth that looks to be a detached garage conversion that is in front of the principle structure and seems to work just fine.

I had a couple other questions:

1. Will there be any impact fees such as park dedication associated with an ADU?
2. What about SAC and any city connection fees?

Again, thanks much for your work on this!

Susan Thomas

From:
Sent: Monday, February 1, 2021 8:15 PM
To: Susan Thomas
Subject: ADU proposal concerns

Hello Ms Thomas-

I am writing to express some concerns about the recent notice in the Minnetonka Memo regarding allowing detached ADUs in our community. I reviewed the information on the website around the proposal and following discussions. I appreciate the consideration being given to the idea, but feel that not enough has been done to weigh the "cons" to this proposal. I agree that there may be some benefits to allowing ADUs on our single family properties, like housing extended families independently, but that is just a small part of the use case scenario for these units. Allowing detached ADU's could significantly increase population density and I am concerned about the impact this will have on traffic, parking and safety in our neighborhoods. Although some may use their detached ADU for family members, most will see these as income properties all the resulting issues that come with increased rental density will follow. This kind of property use requires greater regulation and City resources. Whether short-term or long-term, rental situations are good until they become bad--and then they can become very bad, very quickly and negatively impact the entire neighborhood. I would like to see some information from other communities who have implemented detached ADUs in a primarily single family residence area to better understand the long term community impact and experience. I would also like to understand how the City plans to regulate these units over time, including managing complaints that may arise from how the property is being used or maintained. Additionally, I have concerns about how the increased rental density will impact our property values. As an owner of a SFR next door to the only "rental" house on our street, I can tell you that there is a significant difference in how our neighbor uses and maintains his rental property versus how the rest of the single family properties on the street. If the balance in our neighborhoods shifts to more rentals, and if these properties are not appropriately regulated and we see an increase in "nuisance" properties, we could have properties surrounding rental units devalued and residents looking to move elsewhere.

If the proposal for detached ADU's moves forward, I would advocate for stricter rules around property use and regulation than what has been discussed so far as well as limitations on the number of detached ADUs allowed in an area and/or limiting them to specific areas. Much of the discussion seems to have focused on the ADU appearance/cosmetic concerns, but that should be only a small part of the conversation--we should be looking at the bigger picture of long term community impact to make sure that changes align with resident community values and can be supported with appropriate City resources.

Thank you for allowing residents to comment and for the work you do to support our community.

Susan Thomas

From: City of Minnetonka, MN <minnetonkamn@enotify.visioninternet.com>
Sent: Monday, February 1, 2021 7:08 PM
To: Susan Thomas
Subject: Email contact from City of Minnetonka, MN

Message submitted from the website.

Site Visitor Name:

Site Visitor Email:

Hi Susan, I read the article re: ADU's and thought I'd give my 2 cents. I'm not planning a project like this, but I have heard/read about others who are coping with bringing family members in. We have 2 grown children come back to live with us. Fortunately, we have the room. And they are healthy. But I would support Mtka allowing ADU's if the need is truly there and it would benefit the family structure. If my next door neighbor needed this, and if all things were vetted out by you, I think it would be great. The community support is important for families and their needs. Thanks for allowing my input.

Susan Thomas

From:
Sent: Thursday, February 4, 2021 1:54 PM
To: Susan Thomas
Subject: detached ADU's

I am in favor of allowing detached ADU's. I think it would provide a great alternative housing solution in an area of high land costs.
I think it could be done in such a way that keeps the current amenities that people of Minnetonka enjoy along with some more affordable options for either extended families or decent rental income.
How has this been done in other areas that has been successful? I have read about Portland and areas of southern California.

Thanks,



Susan Thomas

From:
Sent: Saturday, February 6, 2021 9:12 AM
To: Susan Thomas
Subject: ADU Study Input

Hello Susan -

My name is _____ and I live at _____.

I am writing to express my support for the proposed ADU standards to include detached ADUs. I feel they add flexibility to support housing needs and help enhance the character of neighborhoods with minimal downsides.

I do have a question about the utilities setup. The standards explain that water and sewer must be shared with the principal dwelling. I assume that implies shared consumption and billing. Does that extend to gas, internet and electricity? I think the language on "utilities" could be more clear. Are the ADUs required to use the same electric meter or could someone arrange with Xcel Energy to have a separate meter installed to bill the premise/ADU separately? Gas seems optional based on HVAC design. Not sure if the internet is considered a utility and again there are some network design decisions, if the ADU needs internet access at all, if the ADU and primary dwelling share a network or not and if there is a wired or wireless connection in the ADU.

To summarize that point, I'd suggest clarifying between city utilities and other utilities. Also explicitly define responsibilities for electricity, gas and internet between the city, residents and utility providers (Xcel, Comcast, CenterPoint, etc.)

Thanks for considering detached ADUs and requesting public comment.

Best Regards,

Susan Thomas

From:
Sent: Tuesday, February 9, 2021 6:57 PM
To: Susan Thomas
Subject: Detached ADUs

Dear Susan,

I strongly support the proposed amendment to allow detached ADUs. The reasoning noted in the study seems very sound. Also, it seems somewhat discriminatory that a Minnetonka resident living in a 2000 sf house with a detached garage **can't** add living space above said garage but one in an 8000 sf house with an attached garage **can!** The current situation also disadvantages people who live on a site where it is difficult/expensive or otherwise undesirable to add onto one's main house

Whether above a detached garage or not, allowing detached ADUs will be helpful to those who want or need to build a separate space for boomerang children, adult children with disabilities who need to be cared for by family but need a measure of independence, other family members such a mother or father, care-givers and so on. This is a necessary and family-friendly measure that may also help give people another option for aging in place.

My thanks to you and staff for considering this important update and resident input. Please don't hesitate to contact me for any additional followup.

Best,

Susan Thomas

From:
Sent: Tuesday, February 16, 2021 3:14 PM
To: Susan Thomas
Subject: ADU - Proposed Standards

Hi Susan -

I would like to share my support of the detached ADU proposal. Allowing residents to build a detached ADU should be adopted by the city as there is a precedent of residents converting existing garages into detached ADU's through variances. I'm sure many residents like myself have inquired if they could build a detached ADU's in the past. The fact the city took the time to publish current standards in the Minnetonka Memo a while back indicates there must have been enough interest in the community.

I feel the proposed standards are adequate with the exception of the primary access requirement. I feel this is too restrictive, why are sheds or garages not required to have the same requirements? This should be eliminated from the standards for an ADU or adjusted to clearly layout what visible means (could landscape be added to block sight from the street?, does visible just mean not on the same side as primary dwelling entrance?

Thanks

On Feb 19, 2021, at 7:05 PM,

wrote:

I own and live in a property located in Minnetonka .

I am very concerned about the effort being put forth to denigrate the Single Family Zone by changing it into a free for all.

When do you plan to bring this proposed amendment to the citizens of Minnetonka?

The only ADU I am currently aware of was approved many years ago to accommodate a older member of the family and since has turned into

a business for profit. As you can see, I am passing along my feelings to Mayor Wiersum, and my Council Member, Rebecca Schack.

I have a land line telephone that you can reach me by calling if you care to discuss where this is headed. My name is

. We have lived here since 1976.

Set from [Mail](#) for Windows 10

Susan Thomas

From:
Sent: Monday, February 22, 2021 5:10 PM
To: Susan Thomas
Subject: Detached ADU feedback

Good afternoon Ms. Thomas!

I saw the information piece about detached ADUs in a recent Minnetonka Memo and wanted to provide some feedback (mostly by way of asking questions, I guess?). Thank you for the opportunity!

In general, I completely support this! I think it is a natural way for us in Minnetonka to start taking some early steps toward increasing density and hopefully making our beautiful city more walkable, bikeable, and liveable. I have long considered having one or two separate spaces in our back yard for offices and/or living places. Most of what I have thought about is container-style structures. My pondering has not progressed to any tangible point as yet, however, it does seem relevant to this topic.

From the article, it says that ADUs have spaces for cooking. Is there a stronger definition of what this means anywhere? And a similar question for sanitation?

From the Proposed Standards linked in the article:

- No more than 1 ADU per property - given the size of our discussed options, would 2 or even 3 ADU be permissible? For a lot such as ours (150' x 200') and given the size of containers (8' x either 20' or 40'), we should be able to fit more than one on our property without violating setback requirements.
- Max size seems fine - maybe 1000 square feet would be a nicer round number? And - is the "or 35% of primary residence" meant to have additional language to the effect of making the limit whichever is smaller? So, 950 sq ft or 35% of primary residence area, whichever is smaller?
- Max height - again, given our discussed option, this shouldn't be an issue. Height for the containers themselves can be either 8' 6" or 9' 6".
- Utility connections (specifically sewer) - would composting toilets meet this requirement? Strictly speaking, I imagine they wouldn't but they seem like a viable solution? And, by "shared with the principal dwelling", is it the intent that any sewer line connect to the main residence line and not to the main?
- Additional utility question - would any electric service have to come through the primary residence? How about cable / internet?
- Exception language ("not altering the single-family character of the residence or negatively impacting the surrounding area") - are there any quantifiable definitions for these?

Thank you very much for the chance to ask these questions. I look forward to hearing from you!

Susan Thomas

From: Thursday, February 25, 2021 10:55 AM
To: Susan Thomas
Subject: Accessory Dwelling Unit Study

Hi Susan,

I've been thinking about a detached structure as a studio/retreat, so I'd love to see this happen.

Susan Thomas

From:
Sent: Saturday, February 27, 2021 9:03 AM
To: Susan Thomas
Subject: Proposed Amendments for Accessory Dwelling Unit (ADU)-

Ms. Thomas,

Today's article in the StarTribune reminded me that I wanted to provide feedback on the proposed language for the proposed Accessory Dwelling Unit standards, and hopefully, you are still accepting feedback.

I am in full support of allowing the change to ADU Standards such that separate structures are allowed on a single parcel. I believe it will allow for more appropriate housing density within the city and the ability to have extended family in close proximity, yet within separate quarters. However, I would ask you to consider the following concerns:

Max. Height: The proposed language does not take into consideration that a site may have significant elevation changes such that limiting the height of the ADU based on the highest point of the principal dwelling is not reasonable. I suggest that the language be modified to state that the ADU may not exceed the height of the principal structure or limit it to a single-story structure.

Setbacks: Requiring the ADU to be behind the rear building line of the home is understandable and commendable for a typical suburban site layout but it does not account for the unusual and different existing properties within the city that do not fit this typical layout. Also, side and rear setbacks having more than the current 10-foot setback of a primary structure seems to be unnecessarily restrictive.

Primary Access: As stated above in Setbacks, having a requirement that the ADU may not be visible from the same street as access to the principal dwelling does not take into consideration the unique existing properties within the city that will find this to be punitive and/or overly restrictive. I suggest this requirement be struck from the proposed changes or modified in some manner.

I would appreciate your consideration of these points and ask that the language be revised as suggested.

Sincerely,

Susan Thomas

From:
Sent: Sunday, February 28, 2021 6:00 PM
To: Susan Thomas
Subject: ADU Study

Dear Ms. Thomas-

In an age where the cost of living has risen dramatically (particularly in Minnetonka) and wages have fallen, multi-generational living is becoming a necessity. To retain independence and provide close emotional and financial support, ADU use should be expanded.

In my family, take several examples; my husband's sister has a disability that makes independent living challenging. She is able to do it now with significant support from her parents. As her and her parents health declines, closer living may be a better solution than costly assisted living. Or what about my own daughter who has significant health concerns? Or my nephew who has graduated college with huge students loans and is having trouble finding employment? In all of these situations, having a separate living area would be ideal.

Our rambler is small, and difficult to expand. Having an ADU would allow us to support our family in a healthy way.

Best,

- He likes the change from 12 residents to 10 residents since commissioners and councilmembers have previously voiced support to decrease the number to 10.
- He would prefer the IUP as long as there would be no lapses that would prevent the current residents from staying in the care residence. He asked if an IUP would create the possibility that residents would be evicted. Thomas said that staff would have to research that possibility.
- He does not like the term “expiration” of the IUP, but he likes the chance to meet a new business owner.
- He supports allowing a new building to allow upgrades such as sustainability features.
- He was o.k. with the proposed setbacks.

Chair Sewall noted that commissioners did not have a consensus to pass a motion for one of the three options provided, but all could live with the CUP or IUP options. Thomas appreciated all of the constructive comments.

Banks moved, second by Henry, to recommend that the city council adopt an ordinance modification regarding licensed residential care facilities similar in appearance to their comments.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

C. Ordinance regarding accessory dwelling units (ADU) in residential zoning districts.

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Hanson confirmed with Thomas that the ordinance does not require compliance with the Americans with Disabilities Act. Thomas stated that ADUs would have to comply with state building code requirements.

Banks confirmed with Thomas that ADUs had previously been approved with a variance from ordinance requirements.

Maxwell asked why the attached structure would be limited to 950 square feet when a detached structure is allowed to be 1,000 square feet in size. Thomas agreed with her point. Adding the 50 square feet makes complete sense. The 950 square feet was carried over from the size of the interior ADUs.

The public hearing was opened. No testimony was submitted, and the hearing was closed.

Hanson looks forward to supporting adding this type of housing stock. A property owner should be able to take advantage of having a large lot. On Powers' behalf, he noted that residents do not own the view from one's property. He likes the way the proposed ordinance amendment is written. He agrees with changing the size limit to 1,000 square feet.

Maxwell likes the idea of providing guidance for residents considering adding attached and detached accessory structures. Her preference for the maximum would be to allow 950 square feet or 35 percent FAR, whichever is greater rather than smaller. If either size would fit within the subjective standards, then she favors going with the larger one rather than, the smaller one.

Henry likes the subjective standards since it would not be a one-type-fits-all solution. He would like to see some language to prevent the removal of a 200-year-old oak tree. He supports detached ADUs.

Banks supports staff's recommendation. The modification is long overdue and makes sense. It would provide more housing options.

Chair Sewall agrees that the proposal makes sense. He would like ADUs to be considered when reviewing the tree preservation ordinance. He supports the staff's recommendation.

Hanson moved, second by Maxwell, to recommend that the city council adopt the ordinance regarding accessory dwelling units in residential zoning districts.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

9. Adjournment

Henry moved, second by Banks, to adjourn the meeting at 8:30 p.m. Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Ordinance No. 2021-

An ordinance amending city code sections 300.02, 300.10, 300.11, 300.37, and section 300.16 regarding accessory dwelling units

The City Of Minnetonka Ordains:

Section 1. Section 300.02, subdivision 4 of the Minnetonka City Code, regarding definitions, is amended to read as follows:

~~4. "Accessory apartment" – a smaller secondary dwelling unit, located within a principal dwelling unit, that includes provisions for sleeping, cooking, and sanitation independent of the principal dwelling unit. This definition includes secondary dwelling units that have exterior entrances separate from the principal dwelling unit and secondary dwelling units that are accessed only through the principal dwelling unit.~~

4. "Accessory dwelling unit" – a secondary dwelling unit located on the same property as a principal dwelling unit, which includes provisions for living independent of the principal dwelling, such as areas for sleeping, cooking, and sanitation, as determined by the city planner. This definition includes secondary dwelling units attached to or detached from the principal dwelling unit.

Section 2. Section 300.10, subdivision 4(d) and subdivision 4(f) of the Minnetonka City Code, regarding conditional uses in the R-1 zoning district, is amended as follows:

d) ~~accessory apartments~~ dwelling units;

f) ~~detached garages, storage sheds or other accessory structures, except as provided for in subdivision 3~~ Accessory structures exceeding 12 feet in height or 1,000 square feet in aggregate areas;

Section 3. Section 300.11, subdivision 4(a) of the Minnetonka City Code, regarding conditional uses in the R-2 zoning district, is amended as follows:

a) ~~accessory apartments~~ dwelling units;

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

Section 4. Section 300.37, subdivision 4(a) of the Minnetonka City Code, regarding conditional uses in the R-1A zoning district, is amended as follows:

- a) ~~accessory apartments~~ dwelling units;

Section 4. Section 300.16, Subdivision 3(d) of the Minnetonka City Code, regarding the specific standards applicable to conditional use permits for accessory apartments, is repealed and replaced with the following

d) Accessory dwelling units (ADUs):

1) General Standards:

- a. ADUs are allowed only on properties zoned R-1, R-1A, and R-2.
- b. No more than one ADU is allowed per property.
- c. The owner of the property must reside in the principal dwelling unit or the ADU as a permanent residence, not less than 185 days per calendar year.
- d. ADUs may not be subdivided or otherwise separated in ownership from the principal dwelling unit.
- e. Adequate off-street parking must be provided for both the principal dwelling unit and the ADU. Such parking must be in a garage, carport, or on a paved area specifically intended for that purpose but not within a required driveway turnaround. No more than four vehicles may be parked or stored anywhere outside on the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
- f. The ADU and property on which it is located are subject to all other provisions of this ordinance related to single-family dwellings, including all provisions of the shoreland, wetland, floodplain, and nuisance ordinances. To the extent of any inconsistency among ordinance provisions, the most restrictive provisions apply.

2) Construction and Design Standards:

a. On properties zoned R-1 or R-1A, an ADU may be attached to or detached from a principal structure. On properties zoned R-2, ADUs must be attached to the principal structure. An attached ADU includes an ADU that is contained within an existing principal structure.

b. Any ADU, whether attached or detached:

1. Must be no larger than 1,000 square feet in total area or 35 percent of the floor area of the principal dwelling, whichever is less. The city council may approve a larger area where the additional size would not result in undue adverse impacts to

the neighboring properties. In evaluating whether this standard is met, the city may consider things such as the size of the property; the location of the ADU relative to homes on adjacent properties; whether the ADU would be reasonably screened from adjacent properties by existing or proposed vegetation, elevation changes, or linear distance; whether a similarly-sized, non-ADU structure could be constructed in the location proposed without a conditional use permit or variance; or any other characteristic the city considers important or unique. In no case may a detached ADU be 200 square feet or less in total size.

2. Must be served by municipal water, municipal sanitary sewer, and gas and electric utilities via service lines shared with the principal dwelling unit. Unless otherwise approved by staff, water service to the ADU must be connected after the existing meter in the principal structure.

3. Must comply or be brought into compliance with all applicable building, housing, electrical, plumbing, mechanical, and related city codes.

4. May not be served by an additional curb cut unless approved by the city engineer in compliance with the driveway ordinance.

5. Must be registered with the Minnetonka police and fire departments prior to occupancy.

c. Attached ADUs:

1. Must be designed to maintain the single-family appearance of the principal dwelling from off-site views.

2. May be created through the conversion of living space or attached garage space. However, the garage space may be converted only if: (1) space is available on the property for construction of a 24-foot by 24-foot garage without variance; and (2) the applicant submits a detailed plan demonstrating adequate vehicular parking exists on the site.

3. Maximum height and minimum required setbacks are outlined for principal structures in the associated zoning district.

d. Detached ADUs:

1. Must be designed to maintain the residential character of the lot on which it will be located.

2. May be created through the conversion of detached garage space only if either: (1) the principal structure includes an attached garage with minimum dimensions of 24 feet by 24 feet; or (2) space is available on the property for construction of an attached or detached 24-foot by 24-foot garage without variance, and the applicant submits a detailed plan that demonstrates adequate vehicular parking exists on the site.

3. The highest point of the ADU may not extend above the highest point of the roof of the principal dwelling unit. The city council may approve a taller ADU if it finds the additional height would not result in undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider things such as the size of the property; the location of the ADU relative to homes on adjacent properties; whether the ADU would be reasonably screened from adjacent properties by existing vegetation, elevation changes, or linear distance; whether a similarly-sized, non-ADU structure could be constructed in the location proposed without a conditional use permit or variance; or any other characteristic the city considers important or unique.

4. Must be located:

a) Behind the rear building line of the principal dwelling unit. In the case of a corner or double frontage lots, the ADU is subject to front yard setbacks established for principal structures.

b) To preserve existing, natural site features to the extent practicable.

5. Must be set back from side and rear property lines a distance equal to the code-defined height of the ADU, but not less than 15 feet, and set back from all natural features as required by ordinance.

6. May contain a maximum of two bedrooms.

7. Must be constructed on a permanent foundation with no wheels.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction: Dec. 7. 2020

Date of adoption: Oct. 4, 2021

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk



**City Council Agenda Item 14B
Meeting of October 4, 2021**

Title: Ordinance regarding licensed residential care facilities
Report From: Susan Thomas, AICP, Assistant City Planner
Submitted through: Mike Funk, Acting City Manager
Julie Wischnack, AICP, Community Development Director

Action Requested: Motion Informational Public Hearing
Form of Action: Resolution Ordinance Contract/Agreement Other N/A
Votes needed: 4 votes 5 votes N/A Other

Summary Statement

At its [March 15, 2021](#) study session, the council discussed the city's current conditional use permit regulations for licensed residential care facilities. The council directed staff to prepare conditional use permit and interim use permit ordinance options for consideration.

Recommended Action

Staff recommends the council adopt one of the ordinance options.

Strategic Profile Relatability

Financial Strength & Operational Excellence Safe & Healthy Community
Sustainability & Natural Resources Livable & Well-Planned Development
Infrastructure & Asset Management Community Inclusiveness
N/A

Statement: Licensed residential care facilities provide a housing option for Minnetonka residents and their family members who cannot live independently for a variety of reasons. Allowing such facilities within Minnetonka is consistent with the Strategic Priority to “create a community that is engaged, tolerant and compassionate about everyone. Embrace and respect diversity, and create a community that uses different perspectives and experiences to build an inclusive and equitable city for all.”

Financial Consideration

Is there a financial consideration? No Yes [Enter estimated or exact dollar amount]

Financing sources: Budgeted Budget Modification New Revenue
Source Use of Reserves Other [Enter]

Ordinance Options

Staff has prepared three ordinance options for consideration:

1. **Conditional Use Permit.** Facilities would continue to be allowed by conditional use permit (CUP). However, the ordinance option would include a new subjective standard, and new, more restrictive objective standards.
2. **Interim Use Permit.** Facilities would be allowed by interim use permit (IUP). The IUP ordinance option includes the same standards as the CUP ordinance option, except that the permit would expire upon a change in state license holder, state license type, or type of facility.
3. **Disallow.** New facilities serving over six residents would not be allowed in Minnetonka; existing facilities could continue to operate as non-conforming uses under their existing CUPs.

Community Feedback

In July 2021, a [webpage](#) outlining the ordinance amendment options was added to the city's website. Notices were sent to the operators of four residential care facilities in Minnetonka and 245 property owners in the neighborhoods surrounding these four facilities.¹ The notices indicated that the city was considering changes to the licensed residential care facility ordinance, directed recipients to the webpage, and requested feedback. The staff has received just five responses, all from area property owners. Three of the respondents suggested that larger facilities should not be allowed, and two suggested they should continue to be allowed by conditional use permit. The responses are attached.

Planning Commission Consideration

The planning commission discussed the ordinance options on Aug. 19, 2021. The commission:

- Agreed that facilities serving seven to ten residents should be allowed in the community by special permit; commissioners did not support the "disallow" option.
- Agreed that care facilities should be allowed to occupy either new homes constructed specifically for such use or to occupy existing homes.
- Agreed that care facilities should be allowed only on lots of at least one acre in size and located on collector or arterial streets. Further objective standards supported by the commission include "standard" setbacks for residential homes, maximum floor area ratios, minimum parking spaces, and landscape buffering.

The commission did not come to a consensus on whether facilities serving seven to ten residents should be allowed by CUP or IUP. Some commissioners supported the CUP option. CUP permits do not expire unless the use is abandoned for at least one year; CUPs may also

¹ Staff specifically chose the four facilities. Two of the facilities went through contentious conditional use permit public review processes, and two moved through the process with little feedback or concern.

be revoked if the conditions of approval are not met. A CUP gives residents and their family members security in knowing facilities could continue to provide care regardless if the operator were changed. Alternately, some commissioners supported the IUP option, as it would allow the city to reevaluate facilities in the event of change. (See attached minutes.)

Following Commission Consideration

Staff agreed with many of the points raised by planning commissioners and has since updated the draft ordinances. The ordinances presented for council consideration generally reflect the commission discussion.

The full ordinance amendment options are attached to this report. The chart below summarizes the CUP and IUP options.

Subjective Standard		CUP Option	IUP Option
The site and facility must be designed to minimize undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider such things as the surrounding land uses; the size of the property relative to adjacent properties; the location of the facility on the property relative to the location of homes on adjacent properties; whether the facility would be buffered from adjacent properties by existing vegetation, elevation changes, or linear distance; or any other site or neighborhood characteristic that the city considers important or unique.			
Objective Standards		CUP Option	IUP Option
General	Residents Allowed	7 to 10 residents	7 to 10 residents
	Permit Required	Conditional Use Permit	Interim Use Permit
	Permit Expiration	If conditions of approval are not met.	With a change of state license holder, license type, or change in the type of facility.
Site	Lot Size	Minimum 1-acre	Minimum 1-acre
	Access	Collector or arterial street	Collector or arterial street
	Parking	No on-street parking	No on-street parking
		Minimum 0.5 stalls per resident	Minimum 0.5 stalls per resident
	Holiday parking plan	Holiday parking plan	
Const.	Construction Type	New or Existing (with additions allowed)	New or Existing (with additions allowed)
	Floor Area	Minimum 300 sq. ft. per resident	Minimum 300 sq. ft. per resident
	FAR	No more than 100% of highest in area	No more than 100% of highest in area

	Setback	<ul style="list-style-type: none"> • New Construction: min. 50 ft from all property lines • Existing Construction: zoning district standards 	<ul style="list-style-type: none"> • New Construction: min. 50 ft from all property lines • Existing Construction: zoning district standards
Misc.	Landscaping	Landscape buffering is required.	Landscape buffering is required.
	Licensing	Conformance with state and city	Conformance with state and city

Staff Comment

Objective standards provide specific direction and establish clear expectations for existing and future property owners and their neighbors. Conversely, subjective standards allow for the use of reasonable discretion. In drafting the subjective standard for the CUP and IUP options, it was staff's goal to provide language to allow the city to evaluate each CUP or IUP application within the individual context in which a facility was being proposed.

By land use planning definitions, conditional and interim uses are allowed if the standards outlined in the ordinance are met. This means that, by including a use in the zoning ordinance as either conditional or interim, the city acknowledges that the use is appropriate when the standards are met.

City staff and the planning commission agreed that facilities serving over six residents are appropriate uses in the community. However, if – based on previous applications and consideration – the city council disagrees and cannot foresee a circumstance where such a facility would be appropriate in a single-family residential district, the “disallow” ordinance would be the only option.

From:
To: [Susan Thomas](#)
Subject: Licensed Residential care facilities
Date: Monday, July 26, 2021 12:12:21 PM

Hello,
Where are you looking to put this in?? What part of the town? Why?

I would say, no to this.

Thank you

From:
To: [Susan Thomas](#)
Subject: residential care facilities
Date: Monday, July 26, 2021 9:17:16 AM

Hi Susan, I received a notification from the city seeking feedback on changes to the city code on residential care facilities. I live on Fair Hills Road West and there is a Gianni Homes facility on our street and feel that I am qualified to comment on how these facilities affect neighborhoods.

- 1.) I do not believe that care facilities serving more than 6 people should be allowed in residential areas. These facilities become too large for most neighborhoods due to minimum square footage/resident and parking requirements.
- 2.) They are not invisible and DO affect the character of a neighborhood. The Gianni home on our street commonly has 6-8 trash containers on garbage day, multiple commercial deliveries from Handi Medical, McKesson, and other suppliers, unusually high vehicle traffic from workers and visitors.
- 3.) No more than one facility should be allowed in a neighborhood.

As you can tell - I would recommend more restrictions and fewer of these facilities in residential areas. I don't view these as homes, I view them as commercial enterprises and should not be allowed in residential areas.

From:
To: [Susan Thomas](#)
Subject: Feedback for Residential Care Facility options
Date: Monday, July 26, 2021 2:28:19 PM

Hello Ms. Thomas,

Thank you for the opportunity to give input on residential care facilities. After having read and pondered the different options put forth, I strongly support Option #1. I live in the Fairhills neighborhood where Gianna Homes is located. I believe they have 7 rooms for residents.

Option #1 mandates that a facility of 7 to 10 residents operates under certain restrictions and is required to maintain their conformance in order to keep their license. This provides protection for the neighborhoods where these homes are located.

Option #1 allows for an owner of a residential care facility to sell their business and the license continues with the facility. I feel strongly that residents and their families greatly benefit from living in a neighborhood environment. Allowing the license to continue with the facility - as long as the conditions are met - offers consistency for the residents, reduces stress on the families in wondering if they must relocate their loved one, encourages and protects the investments of those who own and run these homes, and, it would seem, would make any ownership transition smoother and less stressful for all.

I understand that this has nothing to do with homes of 6 or less residents and some people have concerns about a home being too large. It may depend on the type of residential facility it is, but for memory care, I am in full support of Option #1.

Thank you,

From:
To: [Susan Thomas](#)
Subject: Feedback regarding the Licensed Residential Care Facilities proposed amendments..
Date: Monday, July 26, 2021 4:02:45 PM

I am a resident at a single family home at Mtka. Right at the corner of Excelsior Blvd. and Mayview Road and across from the Immaculate Heart of Mary church parking lot. A high traffic area . There is currently a Memory Care facility on the other side of Excelsior Blvd. on Mayview Rd. There is an original "farm house" right on the corner (kitty corner from my house) and next to the care facility. I am wondering if it has been suggested to the planning commission to turn this into a part of or adjacent to the current memory care facility. Option #2 seems to open up that possibility? If I understand the options correctly, they are for facilities of 7-10 residents. Option #1 is the best in my consideration. Option# 2 I consider the next best and Option# 3, repeal of the city code, I am not in favor of. I would like to ask that I be kept up to date on this.
Thank you for your consideration,

From:
To: [Susan Thomas](#)
Subject: feedback on 6 plus
Date: Wednesday, July 28, 2021 10:51:25 AM

Susan,

I received your postcard. I live

Fairhills.

Don't allow it.

1) Traffic. Giana traffic is more than the rest of the neighborhood combined. They use to have employee meetings or family events and cars were parked up and down the street and on MY LAWN because the street is so narrow. I don't mind an occasional birthday party or graduation party my neighbors might have but these were multiple times a year for the same house.

2) Narrow Road. They have several calls for emergency vehicles and they block the entire street. No one can get by them. I can't even get into my driveway. This has gotten better. They no longer park the fire engine in the street. These days it's mostly just an ambulance which they pull into their driveway. It was crazy for years - fire engine, 2 squad cars, ambulance and they all sat there for hours. I don't want to seem bitter but most of the residents at Giana have a do not resuscitate card on file. I kept saying to the police, now that the ambulance is here why don't you guys leave?? The EMTs are more qualified than you.

3) Trash cans. They set out over a dozen trash / recycle cans on Saturday and don't pull them back in till Tuesday. No one regulates them. No one fines them. They just do what they want.

4) Questionable employees. I just picked up a pocket size liquor bottle they threw on my yard right in front of their driveway. Must need a drink before they help those seniors with dementia. They are all low paid employees with junker cars. Half of them have family that drop them off for work because they don't even own a car.

5) Snow removal. They have big parking lots and have no where to put the snow so they routinely plow it into my yard and the blade on their plow ruined the new grass city the city just planted by the storm pond filter.

6) They are running a business. They don't care about your neighborhood. They don't live there.

There, that's my 2 cents worth.

Hanson looks forward to supporting the proposal. He appreciates the applicants working with staff and neighbors. He understands the reasons for removing tree five instead of tree nine. The applicants have worked with Youngstedts and have additional parking if needed next door.

Chair Sewall supports the proposal. He stated that a trash day in January with snow piled up might create an issue, but he trusted that the applicants would find a creative solution to make it work. He appreciates the exhaustive review of the trees and tree preservation by the applicant and staff. He loves to see collaboration at work. He was glad tree nine would be able to be saved.

Maxwell moved, second by Hanson, to recommend that the city council adopt the attached ordinance and resolution for the Goddard School located at 14900 State Hwy 7 with a modification to allow a parking reduction to protect tree number nine and remove tree number five.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

B. Ordinances regarding licensed residential care facilities.

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. From the staff's perspective, the existing ordinance functions well. Since 1986, the city has reviewed nine applications for facilities that serve more than six residents; however, if the majority of commissioners and councilmembers choose to change the ordinance, then staff would recommend approval of the conditional use permit option listed in the staff report.

Maxwell asked if the ordinance amendment would restrict the number of residential care facilities that could be located within a designated distance from each other. Thomas answered in the negative. Staff discussed it but noted that it could create a legal issue that would allow approval of the first application but may deny all subsequent applications for the same use.

Maxwell confirmed with Thomas that each interim use permit (IUP) would go through the entire review process. Thomas explained that an addition could be reviewed as part of the IUP application to make sure the subjective standards continue to be met. The condition that requires half of a parking stall for each resident is based on the standard set by the Institute of Transportation Engineers for parking requirements for assisted living facilities.

Banks asked if the proposed ordinance amendment would impact any facility currently in operation. Thomas explained that existing facilities would become non-conforming uses and would continue to operate in accordance with their current conditional use permit

standards. If the use would cease operation for 12 months or more, then the legal non-conformity status would become invalid.

Maxwell asked if the city has received complaints regarding the residential care facilities currently in operation. Thomas explained that the majority of complaints received are in reference to care facilities with six or fewer residents since the city has no review authority for those facilities. When the city requested resident input on residential care facilities, the city received responses both in opposition and in support.

Hanson noted a previous application to locate a 12-person residential care facility on Lake Street Extension. Since the city council denied that application, the property owner has subdivided the property and could legally construct a six-person residential care facility on each property. Thomas explained that it would be illegal according to state law to limit the number of residential care facilities allowed within a certain distance from each other. Staff found roughly 60 properties that could meet all of the standards regarding property size and setbacks that are located on a collector or arterial street and are not publically owned.

Chair Sewall confirmed with Thomas that the property owner may lease a site to a business operator of a residential care home.

The public hearing was opened. No testimony was submitted, and the hearing was closed.

In response to Henry's question, Thomas explained that the proposed conditional use permit (CUP) amendment option would allow for the new construction of a building if the site would meet a 50-foot-front yard setback. The IUP ordinance amendment option would require the utilization of an existing house that would most commonly not have a 50-foot setback. The IUP would have an expiration based on a change of the state license holder, license type, or type of facility. The property could easily revert back to being used as a single-family residence.

In response to Chair Sewall's question, Thomas explained that if an operator of a residential care facility with an IUP sold the business, then the buyer would still have to go through the entire review process.

Maxwell stated that:

- She opposes the third option. A residential care home with seven to ten residents needs to be allowed.
- The differences between the CUP and IUP are the expiration, setback, and whether to construct a new building or utilize an existing single-family residence. From the perspective of a resident moving into a care facility or family member placing a loved one in a care facility, she would like to know that the permit would not expire if the owner would sell the business and potentially force the resident to move somewhere else. She would prefer to keep continuity.

- The 50-foot setback would be unnecessary, especially with the 100 percent floor area ratio (FAR) requirement. The condition requiring a building to match the character of the neighborhood should be a condition of the CUP.
- A new building should be allowed to be constructed. The city should not limit that option for a property owner.

Hanson stated that:

- He does not have a strong preference.
- There is a great need for this type of care based on current demographics.
- He favors the least burdensome option for an operator of a residential care facility. The CUP seems the least burdensome for a new provider to start a residential care home.

Banks stated that:

- In the past, residents expressed initial concern when a new residential care facility was proposed near them, but there have been few or no complaints received for operating residential care facilities that have CUPs. The facilities with CUPs can be looked at to make sure the conditions are being met. Facilities with six or fewer residents and no CUP are the ones that received the most complaints.
- The CUP ordinance amendment option would make the most sense.
- The 50-foot front and side setbacks would limit the site options.
- He leaned more toward the CUP option than the IUP.
- He questioned the need to make any changes to the ordinance.

Henry stated that:

- He leaned toward the IUP option to give the city more oversight if there would be a change in license holder. He did not see that being a roadblock for a resident to continue living there.
- A new building should be allowed to be constructed.
- The 50-foot setback would be restrictive since only 60 properties in the city would meet all of the requirements.

Maxwell felt a limit of 10 residents would be reasonable or nine residents based on what would be approved with the square-foot-per-resident requirement. It would make sense to give guidance to applicants right away of the resident-number limit.

Chair Sewall stated that:

- He likes the change from 12 residents to 10 residents since commissioners and councilmembers have previously voiced support to decrease the number to 10.
- He would prefer the IUP as long as there would be no lapses that would prevent the current residents from staying in the care residence. He asked if an IUP would create the possibility that residents would be evicted. Thomas said that staff would have to research that possibility.
- He does not like the term “expiration” of the IUP, but he likes the chance to meet a new business owner.
- He supports allowing a new building to allow upgrades such as sustainability features.
- He was o.k. with the proposed setbacks.

Chair Sewall noted that commissioners did not have a consensus to pass a motion for one of the three options provided, but all could live with the CUP or IUP options. Thomas appreciated all of the constructive comments.

Banks moved, second by Henry, to recommend that the city council adopt an ordinance modification regarding licensed residential care facilities similar in appearance to their comments.

Henry, Maxwell, Banks, Hanson, and Sewall voted yes. Powers and Waterman were absent. Motion carried.

This item is tentatively scheduled to be heard by the city council on Sept. 13, 2021.

C. Ordinance regarding accessory dwelling units (ADU) in residential zoning districts.

Chair Sewall introduced the proposal and called for the staff report.

Thomas reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Hanson confirmed with Thomas that the ordinance does not require compliance with the Americans with Disabilities Act. Thomas stated that ADUs would have to comply with state building code requirements.

Banks confirmed with Thomas that ADUs had previously been approved with a variance from ordinance requirements.

Maxwell asked why the attached structure would be limited to 950 square feet when a detached structure is allowed to be 1,000 square feet in size. Thomas agreed with her point. Adding the 50 square feet makes complete sense. The 950 square feet was carried over from the size of the interior ADUs.

Ordinance No. 2021-

An ordinance amending city code sections 300.10, 300.12, 300.13, and 300.16 regarding licensed residential care facilities or community based residential care facilities

The City Of Minnetonka Ordains:

Section 1. Section 300.10, Subdivision 4(g) of the Minnetonka City Code, regarding conditional uses in the R-1 zoning district, is amended as follows:

g) licensed residential care facilities or community-based residential care facilities serving 7 through ~~42 persons~~ 10 people;

Section 2. Section 300.12, Subdivision 4(e), of the Minnetonka City Code, regarding conditional uses in the R-3 zoning district, is amended as follows:

e) licensed residential care facilities or community-based residential care facilities serving 7 through ~~42 people~~ 10 people;

Section 3. Section 300.13, Subdivision 4(e), of the Minnetonka City Code, regarding conditional uses in the R-4 zoning district, is amended as follows:

e) licensed residential care facilities or community-based residential care facilities serving 7 through 10 persons;

Section 4. Section 300.16, Subdivision 3(g) of the Minnetonka City Code, regarding the specific standards applicable to conditional use permits for licensed residential care facilities or community based residential care facilities, is repealed and replaced with the following:

g) Licensed residential care facilities or community based residential care facilities serving seven to ten residents:

1) The site and facility must be designed to minimize undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider such things as the surrounding land uses; the size of the property relative to adjacent properties; the location of the facility on the property relative to the location of homes on adjacent properties; whether the facility would be buffered from adjacent properties by existing

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

vegetation, elevation changes, or linear distance; or any other site or neighborhood characteristic the city considers important or unique. In addition:

2) Site Standards.

a. Facilities may only be located on properties:

1. At least one acre in size; and

2. With direct access to a collector or arterial street as identified in the comprehensive plan.

b. No on-street parking is allowed.

c. A minimum of 0.5 parking stalls must be provided on-site per overnight resident based on the proposed capacity.

d. Exterior parking must be located on a paved area. If designed as a parking lot, the lot must be located behind the rear building line of the facility and must be set back a minimum of 20 feet from all property lines.

3) Building Standards.

a. The facility may be located in a new or existing structure. Any new structure or changes to the existing structure necessary to accommodate the facility must be residential in character.

b. The floor area ratio (FAR) of the facility may be no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street.

c. The facility must contain a minimum of 300 square feet of residential building area for each overnight resident, based on the proposed capacity.

d. The facility must meet the maximum height restrictions and minimum setback requirements of the site's corresponding zoning district and from shoreland, wetland, and floodplain areas as outlined in this ordinance.

4) Additional Standards.

a. Landscape buffering of the facility and any parking lot must be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts.

b. The facility must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays. The plan must be submitted to city staff for review and approval.

c. No exterior evidence of the use or activity that is not customary for typical residential uses is allowed.

d. The facility must conform or come into conformance with the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances.

e. The city may impose additional conditions in order to address the specific impacts of a proposed facility.

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction: May 24, 2021

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk

Ordinance No. 2021-

An ordinance amending city code sections 300.10, 300.12, 300.13 and 300.16 regarding licensed residential care facilities or community based residential care facilities

The City Of Minnetonka Ordains:

Section 1. Section 300.10 Subdivision 4(g) of the Minnetonka City Code, regarding conditional uses in the R-1 zoning district, is amended as follows and the subdivision reordered accordingly:

~~g) Licensed residential care facilities or community based residential care facilities serving 7 through 12 persons;~~

Section 2. Section 300.10, Subdivision 8(d) is added to the Minnetonka City Code, regarding interim uses in the R-1 zoning district:

d) Licensed residential care facilities or community-based residential care facilities serving seven to ten people:

1) The site and facility must be designed to minimize undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider such things as the surrounding land uses; the size of the property relative to adjacent properties; the location of the facility on the property relative to the location of homes on adjacent properties; whether the facility would be buffered from adjacent properties by existing vegetation, elevation changes, or linear distance; or any other site or neighborhood characteristic that the city considers important or unique. In addition:

2) Site Standards.

a. Facilities may only be located on properties:

1. At least one acre in size; and

2. With direct access to a collector or arterial street as identified in the comprehensive plan.

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

b. No on-street parking is allowed.

c. A minimum of 0.5 parking stalls must be provided on-site per overnight resident based on the proposed capacity.

d. Exterior parking must be located on a paved area. If designed as a parking lot, the lot must be located behind the rear building line of the facility and must be set back a minimum of 20 feet from all property lines.

3) Building Standards.

a. The facility may be located in new or existing structures. Any new structure or changes to existing structures to accommodate the facility must be residential in character.

b. The floor area ratio (FAR) of the facility may be no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street.

c. The facility must contain a minimum of 300 square feet of residential building area for each overnight resident, based on the proposed capacity.

d. The facility must meet the maximum height restrictions and minimum setback requirements of the site's corresponding zoning district and from shoreland, wetland, and floodplain areas as outlined in this ordinance.

4) Additional Standards.

a. Landscape buffering of the facility and any parking lot must be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts.

b. The facility must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays. The plan must be submitted to city staff for review and approval.

c. No exterior evidence of the use or activity that is not customary for typical residential uses is allowed.

d. The facility must conform or come into conformance with the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances.

e. The city may impose additional conditions in order to address the specific impacts of a proposed facility.

5) The interim use permit will be issued in the name of the state license

holder and will be for the type of licensed residential care facility outlined in the interim use permit application. Any change in the license holder, license type, or type of care facility will render the permit invalid.

~~de)~~ A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law

Section 3. Section 300.12 Subdivision 4(e) of the Minnetonka City Code, regarding conditional uses in the R-3 zoning district, is amended as follows and the subdivision reordered accordingly:

~~e) licensed residential care facilities or community based residential care facilities serving 7 through 16 people;~~

Section 4. Section 300.12, Subdivision 6(c) of the Minnetonka City Code, regarding interim uses in the R-3 zoning district, is amended as follows:

c) Licensed residential care facilities or community-based residential care facilities serving seven to ten residents, subject to the standards as outlined in City Code Section 300.10, Subdivision 8(d).

~~ed)~~ A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law

Section 5. Section 300.13 Subdivision 4(e) of the Minnetonka City Code, regarding conditional uses in the R-4 zoning district, is amended as follows and the subdivision reordered accordingly:

~~e) licensed residential care facilities or community based residential care facilities;~~

Section 6. Section 300.13, Subdivision 6(d), of the Minnetonka City Code, regarding interim uses in the R-4 zoning district, is amended as follows and subdivision reordered accordingly:

d) Licensed residential care facilities or community-based residential care facilities serving seven to ten residents, subject to the standards as outlined in City Code Section 300.10, Subdivision 8(d).

~~de)~~ A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law

Section 6. Section 300.16, Subdivision 3(g) of the Minnetonka City Code, regarding specific standards applicable to conditional use permits, is amended as follows and the subdivision reordered accordingly:

g) ~~Licensed residential care facilities or community based residential care facilities:~~

1) ~~3,000 square feet of lot area for each overnight resident, based on proposed capacity;~~

2) ~~300 square feet of residential building area for each overnight resident, based on proposed capacity;~~

3) ~~in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:~~

a. ~~the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features;~~
or

b. ~~the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.~~

4) ~~no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;~~

5) ~~traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:~~

a. ~~in R-1 and R-2 districts, the use is not be permitted on properties that gain access by private roads or driveways that are used by more than one lot;~~

b. ~~the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;~~

~~e. — the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.~~

~~6) — no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;~~

~~7) — all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;~~

~~8) — landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;~~

~~9) — submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;~~

~~10) — submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and~~

~~11) — additional conditions may be required by the city in order to address the specific impacts of a proposed facility.~~

Section 7. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction: May 24, 2021

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk

Ordinance No. 2021-

An ordinance amending city code sections 300.10, 300.12, 300.13, and 300.16 regarding licensed residential care facilities or community based residential care facilities

The City Of Minnetonka Ordains:

Section 1. Section 300.10 Subdivision 4(g) of the Minnetonka City Code, regarding conditional uses in the R-1 zoning district, is removed, as follows, and the subdivision reordered accordingly:

~~g) licensed residential care facilities or community based residential care facilities serving 7 through 12 persons;~~

Section 2. Section 300.12, Subdivision 4(e), of the Minnetonka City Code, regarding conditional uses in the R-3 zoning district, is removed as follows, and the subdivision reordered according:

~~e) licensed residential care facilities or community based residential care facilities serving 7 through 16 people;~~

Section 3. Section 300.13, Subdivision 4(e), of the Minnetonka City Code, regarding conditional uses in the R-4 zoning district, is removed as follows and the subdivision reordered accordingly:

~~e) licensed residential care facilities or community based residential care facilities;~~

Section 4. Section 300.16, Subdivision 3 of the Minnetonka City Code, regarding specific standards applicable to conditional use permits, is removed as follows and the subdivision reordered accordingly:

~~g) Licensed residential care facilities or community based residential care facilities:~~

~~1) 3,000 square feet of lot area for each overnight resident, based on proposed capacity;~~

The ~~stricken~~ language is deleted; the single-underlined language is inserted.

2) ~~300 square feet of residential building area for each overnight resident, based on proposed capacity;~~

3) ~~in R-1 and R-2 districts, for new construction including additions, a floor area ratio (FAR) that is no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street. The FAR applies to an existing structure only if it seeks to expand. The city may exclude a property that the city determines is not visually part of the applicant's neighborhood and may add a property that the city determines is visually part of the applicant's neighborhood. The city may waive or modify the floor area requirement where:~~

a. ~~the proposed use would be relatively isolated from the rest of the neighborhood by slopes, trees, wetlands, undevelopable land, or other physical features;~~
or

b. ~~the applicant submits a specific building design and site plan, and the city determines that the proposed design would not adversely impact the neighborhood character because of such things as setbacks, building orientation, building height, or building mass. In this case, the approval is contingent upon implementation of the specific site and building plan.~~

4) ~~no external building improvements undertaken in R-1 and R-2 districts which alter the original character of the home unless approved by the city council. In R-1 and R-2 districts, there must be no exterior evidence of any use or activity that is not customary for typical residential use, including no exterior storage, signs, and garbage and recycling containers;~~

5) ~~traffic generation: a detailed documentation of anticipated traffic generation must be provided. In order to avoid unreasonable traffic impacts to a residential neighborhood, traffic limitations are established as follows:~~

a. ~~in R-1 and R-2 districts, the use is not be permitted on properties that gain access by private roads or driveways that are used by more than one lot;~~

b. ~~the use must be located on, and have access only to, a collector or arterial roadway as identified in the comprehensive plan;~~

c. ~~the use must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays, that has been reviewed and approved by city staff.~~

3) ~~no on-street parking to be allowed. Adequate off-street parking will be required by the city based on the staff and resident needs of each specific facility. In R-1 and R-2 districts, the parking area must be screened from the view from other R-1 and R-2 residential properties. Private driveways must be of adequate width to accommodate effective vehicle circulation and be equipped with a turnaround area to prevent backing maneuvers onto~~

~~public streets. Driveways must be maintained in an open manner at all times and be wide enough for emergency vehicle access. Driveway slope must not exceed 8 percent unless the city determines that site characteristics or mitigative measures to ensure safe vehicular circulation are present. Adequate sight distance at the access point must be available;~~

~~4) — all facilities to conform to the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances;~~

~~5) — landscape buffering from surrounding residential uses to be provided consistent with the requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts. Landscape screening from surrounding residential uses may be required by the city depending on the type, location and proximity of residential areas to a specific facility;~~

~~6) — submission of detailed program information including goals, policies, activity schedule, staffing patterns and targeted capacity which may result in the imposition of reasonable conditions to limit the off-site impacts;~~

~~7) — submission of a formal site and building plan review if a new building is being constructed, an existing building is being modified, or the city otherwise determines that there is a need for such review; and~~

~~8) — additional conditions may be required by the city in order to address the specific impacts of a proposed facility.~~

Section 5. This ordinance is effective immediately.

Adopted by the city council of the City of Minnetonka, Minnesota, on Oct. 4, 2021.

Brad Wiersum, Mayor

Attest:

Becky Koosman, City Clerk

Action on this ordinance:

Date of introduction: May 24, 2021

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on Oct. 4, 2021.

Becky Koosman, City Clerk