

ORDINANCE #2021-1261

ORDINANCE ESTABLISHING PARK VILLA TOWNHOMES HOMEOWNERS' ASSOCIATION
INC. HOUSING IMPROVEMENT AREA

The City Council (the "City Council") of the City of Brooklyn Park, Minnesota (the "City") hereby ordains:

Section 1. Recitals.

1.01. The City is authorized under Minnesota Statutes, Sections 428A.11 to 428A.21, as amended (the "Housing Improvement Act"), to establish by ordinance a housing improvement area within which housing improvements are made or constructed and the costs of such improvements are paid in whole or in part from fees imposed within the area.

1.02. The City has determined a need to establish the Park Villa Townhomes Homeowners Association Inc. Housing Improvement Area as further defined herein (the "Park Villa HIA"), in order to facilitate certain improvements to property known as the "Park Villa Townhomes," all in accordance with the Housing Improvement Act.

1.03. The City has consulted with the Park Villa Townhomes Homeowners Association Inc. (the "Association") and with residents in the Park Villa HIA regarding the establishment of such area and the housing improvements to be constructed and financed under this ordinance.

Section 2. Findings.

2.01. The City Council finds that owners of approximately 66% of the housing units within the Park Villa HIA (which exceeds the requirement for owners of at least 50% of the housing units pursuant to Section 428A.12 of the Housing Improvement Act) have filed a petition with the City Clerk requesting a public hearing regarding establishment of such housing improvement area.

2.02. On March 22, 2021, the City Council conducted a public hearing, duly noticed in accordance with the Housing Improvement Act, regarding adoption of this ordinance at which all persons, including owners of property within the Park Villa HIA were given an opportunity to be heard.

2.03. The City Council finds that, without establishment of the Park Villa HIA, the Housing Improvements (as hereinafter defined) could not be made by the Association or the housing unit owners.

2.04. The City Council further finds that designation of the Park Villa HIA is needed to maintain and preserve the housing units within such area.

2.05. The Brooklyn Park Economic Development Authority (the "EDA") will be the implementing entity for the Park Villa HIA and the Housing Improvement Fee (as defined in Section 5 below).

2.06. For the purpose of providing full disclosure of public expenditures and financing arrangements for the Park Villa HIA (as required under Section 428A.13, subd. 1a (1) of the Housing Improvement Act), the City Council determines that the EDA expects to finance the Housing Improvements with available funds of the EDA which will be reimbursed by a housing improvement fee imposed on unit owners within the Park Villa HIA.

2.07. In accordance with Section 428A.13, subd. 1a (2) of the Housing Improvement Act, the City Council determines that the Association will contract for construction of the Housing Improvements.

Section 3. Housing Improvement Area Defined.

3.01. The Park Villa HIA is hereby defined as the area of the City including the following property addresses:

Address	Address
3500 Brookdale Dr. N.	3544 Brookdale Dr. N.
3502 Brookdale Dr. N.	3546 Brookdale Dr. N.
3504 Brookdale Dr. N.	3548 Brookdale Dr. N.
3506 Brookdale Dr. N.	3550 Brookdale Dr. N.
3508 Brookdale Dr. N.	3552 Brookdale Dr. N.
3510 Brookdale Dr. N.	3554 Brookdale Dr. N.
3512 Brookdale Dr. N.	3556 Brookdale Dr. N.
3514 Brookdale Dr. N.	3558 Brookdale Dr. N.
3516 Brookdale Dr. N.	3560 Brookdale Dr. N.
3518 Brookdale Dr. N.	3562 Brookdale Dr. N.
3520 Brookdale Dr. N.	3564 Brookdale Dr. N.
3522 Brookdale Dr. N.	3566 Brookdale Dr. N.
3524 Brookdale Dr. N.	3568 Brookdale Dr. N.
3526 Brookdale Dr. N.	3570 Brookdale Dr. N.
3528 Brookdale Dr. N.	3572 Brookdale Dr. N.
3530 Brookdale Dr. N.	3574 Brookdale Dr. N.
3532 Brookdale Dr. N.	3576 Brookdale Dr. N.
3534 Brookdale Dr. N.	3578 Brookdale Dr. N.
3536 Brookdale Dr. N.	3580 Brookdale Dr. N.
3538 Brookdale Dr. N.	3582 Brookdale Dr. N.
3540 Brookdale Dr. N.	3584 Brookdale Dr. N.
3542 Brookdale Dr. N.	3586 Brookdale Dr. N.

3.02. The Park Villa HIA contains 44 housing units as of the date of adoption of this ordinance, along with common areas.

Section 4. Housing Improvements Defined.

4.01. For the purposes of this ordinance and the Park Villa HIA, the term "Housing Improvements" shall mean improvements to common areas within the Park Villa HIA including without limitation:

- Removal of existing asphalt on all roads and private driveways
- Grading and paving of all roads and private driveways
- Construction of new curbing on all roads
- Re-striping of all side parking lots.

4.02. Housing Improvements shall also be deemed to include:

(a) all costs of architectural and engineering services, overhead, and all similar soft costs in connection with the activities described in Section 4.01 hereof, including without limitation costs of a professional construction manager.

(b) all administration, legal and consultant costs in connection with the Park Villa HIA;
and

(c) costs of financing the Housing Improvements under the Housing Improvement Act.

Section 5. Housing Improvement Fee.

5.01. The EDA may, by resolution adopted in accordance with the petition (the "Fee Resolution"), hearing and notice procedures required under the Housing Improvement Act, impose a fee on the housing units within the Park Villa HIA, at a rate, term or amount sufficient to produce revenues required to provide the Housing Improvements (the "Housing Improvement Fee"), subject to the terms and conditions set forth in this Section. The EDA adopted such a resolution imposing the Housing Improvement Fee on April 19, 2021 (the "Fee Resolution").

5.02. Any Housing Improvement Fee shall be allocated equally to each unit. The City Council specifically finds that such allocation is more fair and reasonable than a fee based upon the tax capacity or square footage of each housing unit (i) because all of the Housing Improvements are to common areas as defined by the Park Villa Townhomes Owners Association Restated Declaration of Covenants, Conditions and Restrictions, dated February 17, 2000, as amended (the "Declaration") and such Declaration provides for an equal allocation to each unit of the costs of capital improvements to common areas and (ii) because the nature of the Housing Improvements does not create a different benefit to different housing units on the basis of the tax capacity or square footage thereof.

5.03. The Housing Improvement Fee shall be imposed and payable for a period no greater than 10 years after the first installment is due and payable.

5.04. Any Housing Improvement Fee shall be prepayable as specified in the Fee Resolution.

5.05. The Fee Resolution may provide that any fee not prepaid by the housing unit owner shall be deemed to include interest on unpaid Housing Improvements costs at a rate equal to 3.00%.

5.06. The Housing Improvement Fee shall be collected at the same time and in the same manner as provided for payment and collection of ad valorem taxes, in accordance with Section 428A.15 of the Housing Improvement Act and Minnesota Statutes, Section 428A.05. As set forth in Section 428A. 14, subd. 2 of the Housing Improvement Act, the Housing Improvement Fee is not included in the calculation of levies or limits on levies imposed under any law or charter.

5.07. The Housing Improvement Fee shall not exceed the amount specified in the notice of public hearing regarding the approval of such fee; provided, however, that the Housing Improvement Fee may be reduced after approval of the Fee Resolution, in the manner specified in such resolution.

Section 6. Annual Reports.

6.01. On August 15, 2021 and each August 15 thereafter until the Housing Improvement Fee and all interest thereon is paid in full and all Housing Improvement Fee revenues have been expended, the Association (and any successor in interest) shall be required to submit to the EDA, as the implementing entity, a copy of the Association's audited financial statements.

6.02. The Association (and any successor in interest) shall also submit to the City any other reports or information at the times and as required by any contract entered into between that entity and the City or the EDA.

Section 7. Notice of Right to File Objections.

7.01. Within 5 days after the adoption of this ordinance, the City Clerk is authorized and directed to mail to the owner of each housing unit in the Park Villa HIA: (a) a summary of this ordinance; (b) notice that owners subject to the proposed Housing Improvement Fee have a right to veto this ordinance if owners of at least 45% of the housing units within the Park Villa HIA file an objection with the City Clerk before the effective date of this ordinance; and (c) notice that a copy of this ordinance is on file with the City Clerk for public inspection.

Section 8. Amendment.

8.01. This ordinance may be amended by the City Council upon compliance with the public hearing and notice requirements set forth in Section 428A.13 of the Housing Improvement Act.

Section 9. Effective Date.

9.01. This ordinance shall be effective 45 days after adoption hereof, or on the date of publication of this ordinance, whichever is later, subject to the veto rights of housing unit owners under Section 428A.18 of the Housing Improvement Act.

TONJA WEST-HAFNER, MAYOR PRO TEM

ATTEST:

DEVIN MONTERO, CITY CLERK

Approved as to Form by City Attorney
Passed on First Reading 03-22-2021
Passed on Second Reading 04-27-2021
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