

Monday, July 29, 2024
6:00 p.m.

Brooklyn Park Council Chambers
5200 85th Avenue North

SPECIAL COUNCIL MEETING – AGENDA #29

Si usted necesita esta información en español: 763-424-8000. Yog xav tau kev pab, thov hu rau 763-424-8000 lawv mam li nrhiav ib tus neeg txhais lus rau koj. If you need this information in another language or alternative format, email access@brooklynpark.org or call 763-424-8000.

Our Vision: Brooklyn Park, a thriving community inspiring pride where opportunities exist for all.

Our Brooklyn Park 2025 Goals:

• A united and welcoming community, strengthened by our diversity • Beautiful spaces and quality infrastructure make Brooklyn Park a unique destination • A balanced economic environment that empowers businesses and people to thrive • People of all ages have what they need to feel healthy and safe • Partnerships that increase racial and economic equity empower residents and neighborhoods to prosper • Effective and engaging government recognized as a leader

I. ORGANIZATIONAL BUSINESS

1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT AND RESPONSE 6:00 p.m. Provides an opportunity for Brooklyn Park residents and business owners in Brooklyn Park to address the Council about matters relating to City business not otherwise on the agenda. Public Comment may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not engage in a dialogue with speakers. Questions from the Council will be for clarification only. Public Comment will not be used as a time for problem solving or reacting to the comments made, but rather for informational purposes only. Public Comment will be limited to 15 minutes and individual comments are limited to three minutes.

2A. RESPONSE TO PRIOR PUBLIC COMMENT

2B. PUBLIC COMMENT

3A. APPROVAL OF AGENDA (Items specifically identified may be removed from Consent or added elsewhere on the agenda by request of any Council Member.)

3B. PUBLIC PRESENTATIONS/PROCLAMATIONS/RECEIPT OF GENERAL COMMUNICATIONS

3B.1 Mayor's Proclamation Proclaiming August 3, 2024 as the Cathedral School Alumni Association Day in the City of Brooklyn Park

A. PROCLAMATION

II. STATUTORY BUSINESS AND/OR POLICY IMPLEMENTATION

4. CONSENT (All items listed under Consent, unless removed from Consent in agenda item 3A, shall be approved by one council motion.) Consent Agenda consists of items delegated to city management or a commission but requires council action by State law, City Charter or city code. These items must conform to a council approved policy, plan, capital improvement project, ordinance or contract. In addition, meeting minutes shall be included.

4.1 Approve A Temporary On-Sale Liquor License for Heavy Rotation Brewing Company for The Happy Hour on the Farm Event on August 23, 2024, from 5:00 p.m. to 9:00 p.m. and September 13, 2024 from 5:00 p.m. to 8:00 p.m. at Eidem Farm, 4345 101st Avenue North

4.2 Approve a Temporary On-Sale Liquor License for the Church of St Vincent de Paul for their Harvest Festival to be held September 15, 2024, at 9100 93rd Avenue North

4.3 Approve a Temporary On-Sale Liquor License for St. Gerard's Church for their Corn Fest to be held August 9-10, 2024, at 9600 Regent Avenue North

4.4 Approve Supplemental Letter of Agreement #13 with Bolton and Menk, Inc., to Prepare Plans and Specifications for the Park Brook Elementary School Safe Routes to School Infrastructure Project

A. RESOLUTION

B. BOLTON AND MENK SUPPLEMENTAL LETTER OF AGREEMENT #13

C. LOCATION MAP

D. AWARD LETTER FROM MNDOT

- 4.5** Approval of Mutual Aid and Automatic Aid Agreements with the Brooklyn Center Fire Department
 - A.** RESOLUTION
 - B.** MUTUAL AID AGREEMENT
 - C.** AUTOMATIC AID AGREEMENT
- 4.6** Resolution Approving Change Orders 1-4 for 63rd Ave Trail and Municipal State Aid (MSA) Mill and Overlay, CIP 4044
 - A.** RESOLUTION
 - B.** LOCATION MAP
 - C.** CHANGE ORDERS 1-4
- 4.7** Accept 2024-2025 Healthy Tree Canopy Grant from Hennepin County
 - A.** RESOLUTION

The following items relate to the City Council's long-range policy-making responsibilities and are handled individually for appropriate debate and deliberation. (Those persons wishing to speak to any of the items listed in this section should fill out a speaker's form and give it to the City Clerk. Staff will present each item, following in which audience input is invited. Discussion will then be closed to the public and directed to the council table for action.)

5. PUBLIC HEARINGS
None

6. LAND USE ACTIONS

- 6.1** Zoning Code Text Amendments (Chapters 150, 151, 152, and 153); Second Reading
 - A.** CITY ATTORNEY REDLINES TO ORDINANCE AMENDING TITLE XV: LAND USAGE
 - B.** SUMMARY OF ORDINANCE
 - C.** MRCCA ORDINANCE AS PRESENTED TO PLANNING COMMISSION
 - D.** DNR CORRESPONDENCE

7. GENERAL ACTION ITEMS

- 7.1** Comment Letter on METRO Blue Line Extension Supplemental Draft Environmental Impact Statement (SDEIS)
 - A.** COMMENT LETTER

III. DISCUSSION – These items will be discussion items but the City Council may act upon them during the course of the meeting.

8. DISCUSSION ITEMS
None.

IV. VERBAL REPORTS AND ANNOUNCEMENTS

- 9A. COUNCIL MEMBER REPORTS AND ANNOUNCEMENTS**
- 9B. CITY MANAGER REPORTS AND ANNOUNCEMENTS**

V. ADJOURNMENT

Since we do not have time to discuss every point presented, it may seem that decisions are preconceived. However, background information is provided for the City Council on each agenda item in advance from city staff and appointed commissions, and decisions are based on this information and past experiences. If you are aware of information that has not been discussed, please raise your hand to be recognized. Please speak from the podium. Comments that are pertinent are appreciated. Items requiring excessive time may be continued to another meeting.

City of Brooklyn Park

Request for Council Action

Agenda Item:	3B.1	Meeting Date:	July 29, 2024
Agenda Section:	Public Presentations/ Proclamations/Receipt of General Communications	Originating Department:	Administration
Resolution:	N/A	Prepared By:	Katrina Doshier, Program Assistant
Ordinance:	N/A		
Attachments:	1	Presented By:	Mayor Hollies Winston
Item:	Mayor's Proclamation Proclaiming August 3, 2024 as the Cathedral School Alumni Association Day in the City of Brooklyn Park, MN		

City Manager's Proposed Action:

The Mayor shall proclaim August 3, 2024 as the Cathedral School Alumni Association Day in the City of Brooklyn Park, MN:

1. "I, Hollies Winston, Mayor of the City of Brooklyn Park, Minnesota, do hereby proclaim August 3, 2024 as the Cathedral School Alumni Association Day in the City of Brooklyn Park."

OR

2. By reading the proclamation.

Overview:

Cathedral Catholic School Alumni Association will be holding their reunion in Brooklyn Park the weekend of August 2-3, 2024

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

3B.1A PROCLAMATION

PROCLAMATION

PROCLAMING AUGUST 3, 2024, AS CATHEDRAL SCHOOL ALUMNI ASSOCIATION DAY IN THE CITY OF BROOKLYN PARK, MN

Whereas, The Cathedral School Alumni Association will host the its 29th Annual Convention/Reunion in Brooklyn Park, Great State of Minnesota; and

Whereas, The Cathedral School Alumni Association is a non-profit organization with several chapters around the United States of America and its implementation arm, the Cathedral School Educational Foundation (CSEF), is recognized by the Internal Revenue Service, as a 501c (3) tax exempt organization; and

Whereas, The Cathedral School Alumni Association was founded and subsequently incorporated as a non-profit corporation in the State of Maryland on August 26, 1997; and

Whereas, The Cathedral School Alumni Association's mission is to provide quality education at the Cathedral Catholic School (in Monrovia, Liberia) through the provision of educational & extra-curricular materials, financial & logistical support, staff training, and the annual awarding of scholarships; & recognizing the impact this vision has had on the lives of young boys and girls of Liberia.

NOW THEREFORE BE IT RESOLVED that, I, the Mayor of the City of Brooklyn Park, on behalf of the citizens and residents of Brooklyn Park hereby PROCLAIM the August 3, 2024 as "Cathedral School Alumni Association Day" in the City of Brooklyn Park, MN and encourage all citizens and residents to help observe this

29th Annual Convention/Reunion in our great City.

Hollies Winston, Mayor



5200 85th Avenue North
Brooklyn Park, MN 55443

City of Brooklyn Park Request for Council Action

Agenda Item:	4.1	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Community Development Rental and Business Licensing
Resolution:	N/A		Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A		
Item:	Approve A Temporary On-Sale Liquor License for Heavy Rotation Brewing Company for The Happy Hour on the Farm Event on August 23, 2024, from 5:00 p.m. to 9:00 p.m. and September 13, 2024 from 5:00 p.m. to 8:00 p.m. at Eidem Farm, 4345 101 st Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR HEAVY ROTATION BREWING COMPANY FOR THE HAPPY HOUR ON THE FARM EVENT ON AUGUST 23, 2024, FROM 5:00 P.M. TO 9:00 P.M. AND SEPTEMBER 13, 2024 FROM 5:00 P.M. TO 8:00P.M. AT EIDEM FARM, 4345 101ST AVENUE NORTH.

Overview:

The Brooklyn Park Recreation and Parks Department is holding "Happy Hour on the Farm" events this summer on August 23, 2024, from 5:00 p.m. to 9:00 p.m. and September 13, 2024 from 5:00 p.m. to 8:00 p.m. held at Eidem Farm, 4345 101st Avenue North.

Heavy Rotation Brewing Company was invited to participate in this city-sponsored event and has submitted a completed temporary liquor license application.

Guests who wish to drink beer will be required to show proper identification to verify they are age 21 or older. A special event permit and site plan has been approved for this event.

The Community Development Department approved the application on July 24, 2024 and the Police Department has completed their investigation of the applicant. There are no known code violations at the property, and staff recommends approval of the Temporary On-Sale Liquor licenses.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park Request for Council Action

Agenda Item:	4.2	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Community Development Rental and Business Licensing
Resolution:	N/A	Prepared By:	Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A		
Item:	Approve a Temporary On-Sale Liquor License for the Church of St Vincent de Paul for their Harvest Festival to be held September 15, 2024, at 9100 93 rd Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR THE CHURCH OF ST VINCENT DE PAUL FOR THEIR HARVEST FESTIVAL TO BE HELD SEPTEMBER 15, 2024, AT 9100 93RD AVENUE NORTH

Overview:

St Vincent de Paul is hosting their Harvest Festival on September 15, 2024, on parish grounds, 9100 93rd Avenue North. The hours of the event are 11:00 a.m. to 6:30 p.m. in the parish parking lot. A special event permit application has been submitted and covers various aspects of the event to ensure that proper procedures are in place for the sale and consumption of alcohol on the premises.

The Community Development Department has approved the application and the Police Department has completed their investigation of the applicant. There are no known code violations at the property and staff recommend approval of the Temporary On-Sale Liquor license.

The license must be approved by the State of Minnesota Alcohol and Gambling Enforcement Division once the City of Brooklyn Park has approved the license.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.3	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Community Development Rental and Business Licensing
Resolution:	N/A	Prepared By:	Megan Bookey, Program Assistant III
Ordinance:	N/A		
Attachments:	N/A		
Item:	Approve a Temporary On-Sale Liquor License for St. Gerard’s Church for their Corn Fest to be held August 9-10, 2024, at 9600 Regent Avenue North		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO APPROVE A TEMPORARY ON-SALE LIQUOR LICENSE FOR ST. GERARD'S CHURCH FOR THEIR CORN FEST TO BE HELD AUGUST 9 – 10 2024, AT 9600 REGENT AVENUE NORTH

Overview:

St. Gerard's church is hosting their annual festival on August 9 and 10, 2024 from 5 p.m. to 10 p.m. on parish grounds, 9600 Regent Avenue N. A special event permit application has been submitted and covers various aspects of the event to ensure that proper procedures are in place for the sale and consumption of alcohol on the premises.

The Community Development Department approved the application on July 24, 2024, and the Police Department has completed their investigation of the applicant. There are no known code violations at the property and staff finds no reason that would preclude the issuance of this Temporary On-Sale Liquor license.

The license must be approved by the State of Minnesota Alcohol and Gambling Enforcement Division once the City of Brooklyn Park has approved the license.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments: N/A

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.4	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Operations and Maintenance
Resolution:	X	Prepared By:	Jeff Holstein, City Transportation Engineer
Ordinance:	N/A		
Attachments:	4	Presented By:	Dan Ruiz, Director of Operations and Maintenance
Item:	Approve Supplemental Letter of Agreement #13 with Bolton and Menk, Inc., to Prepare Plans and Specifications for the Park Brook Elementary School Safe Routes to School Infrastructure Project		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2024 _____ TO AMEND THE 2024-2028 CIP AND THE 2024 BUDGET AND APPROVE SUPPLEMENTAL LETTER OF AGREEMENT #13 WITH BOLTON AND MENK, INC., TO PREPARE PLANS AND SPECIFICATIONS FOR THE PARK BROOK ELEMENTARY SCHOOL SAFE ROUTES TO SCHOOL INFRASTRUCTURE PROJECT

Overview:

The City recently worked with the Osseo School District, Hennepin County, , MnDOT, the project consultant (Alta Engineering) and the public to prepare a Safe Routes to School (SRTS) Plan for the Park Brook Elementary School, Zanewood Elementary School, Northview Middle School, Fair Oaks Elementary School and Excell Academy Charter School. The plan was completed in 2023 and the city subsequently applied for a State of Minnesota SRTS infrastructure grant to help fund the installation of the high priority items identified in the SRTS Plan for the Park Brook Elementary School. The infrastructure items include the addition of sidewalks along one side of five roadway segments, a pedestrian crossing flasher and two pedestrian crosswalks, all within the Park Brook neighborhood. These items will improve safety and accessibility and increase non-motorized student and resident travel in this area. The estimated construction cost of these items is \$1,025,000.

The City was notified in May of 2024 it had received the maximum of \$1,000,000 in SRTS Infrastructure funding. This funding must be used for construction items only and requires a project bid award by the end of 2025. City Engineering does not have the resources available to prepare the design plans for this project in the necessary timeframe. Thus, the city requested proposals from WSB Associates, Inc., and Bolton and Menk, Inc., for this work. Both firms have an existing Consultant Services Agreement with the City and both have recently provided excellent engineering services for the city. The Bolton and Menk, Inc. proposal was the lowest cost (\$76,011) as compared to the WSB proposal cost of \$108,300.

The tentative project schedule includes a public open house in August, surveying and design plan preparation this fall, bidding the project in winter/spring of 2025 and completing all construction items during the summer (non-school) months of 2025. At this time, city staff believe all the construction items can be located within existing city roadway right of way. The city would plan to plow the sidewalk segments.

Staff recommends the City Council retain Bolton and Menk, Inc., to prepare plans and specifications for the Park Brook Elementary School Safe Routes to School Project.

Primary Issues / Alternatives to Consider:

1. The pending Blue Line Extension Light Rail Transit Project is planned to include a station along West Broadway Avenue on the south side of Brooklyn Boulevard. The proposed SRTS sidewalks along 73rd Avenue, Hampshire Avenue and Kentucky Avenue have been identified as sidewalks that will also benefit non-motorized travel to and from the station.
2. The City's Pedestrian and Bicycle Plan also recommends the installation of the 73rd Avenue, Hampshire Avenue and Kentucky Avenue sidewalks.

Budgetary / Fiscal Issues:

The current 2024-2028 CIP does not include funding for this project. To meet the desire of designing in 2024 and constructing in 2025, the city needs to amend the 2024-2028 CIP and the 2024 budget to include \$76,011 for Design in 2024 and \$124,000 for construction in 2025.

The current total cost estimate for the project is approximately \$1,200,000. The current funding plan for the project includes \$1,000,000 of State SRTS funds, \$100,000 of Special Assessment Construction funds and \$100,000 of EDA funds.

Attachments:

- 4.4A RESOLUTION
- 4.4B BOLTON AND MENK SUPPLEMENTAL LETTER OF AGREEMENT #13
- 4.4C LOCATION MAP
- 4.4D AWARD LETTER FROM MNDOT

RESOLUTION #2024 -

RESOLUTION TO AMEND THE 2024-2028 CIP AND THE 2024 BUDGET AND APPROVE SUPPLEMENTAL LETTER OF AGREEMENT #13 WITH BOLTON AND MENK, INC., TO PREPARE PLANS AND SPECIFICATIONS FOR THE PARK BROOK ELEMENTARY SCHOOL SAFE ROUTES TO SCHOOL INFRASTRUCTURE PROJECT

WHEREAS, the City of Brooklyn Park completed a Safe Routes to School (SRTS) Plan in 2023 for five schools, including the Park Brook Elementary School, and

WHEREAS, the Safe Routes to School Plan identified several high priority infrastructure improvements near the Park Brook Elementary School, and

WHEREAS, the City recently applied for and was awarded \$1,000,000 in State of Minnesota Safe Routes to School infrastructure funding to help pay for the construction of five sidewalk segments, a pedestrian flasher (Rectangular Rapid Flashing Beacon) and two pedestrian crosswalks near the Park Brook Elementary School to improve the safety of school children and other area residents walking and biking, and

WHEREAS, City staff have received two consultant proposals to prepare plans and specifications for the proposed infrastructure improvements and the Bolton and Menk, Inc., proposal was the lowest cost and this consultant has previously provided high quality engineering services for the City, and

WHEREAS, the current 2024-2028 CIP does not include any funding for the SRTS Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to enter into an agreement with Bolton and Menk Inc., to prepare the plans and specifications for the proposed Park Brook SRTS Infrastructure Project and to amend the 2024-2028 CIP and the 2024 Budget to provide \$76,011 for design in 2024 and \$24,000 for construction in 2025 for this project with another \$100,000 to be paid for 2025 construction by the City EDA.



Real People. Real Solutions.

111 Washington Avenue S
Suite 650
Minneapolis, MN 55401

Ph: (612) 416-0220
Fax: (612) 416-0222
Bolton-Menk.com

5200 85th Ave N
Brooklyn Park, MN 55443

RE: 2023 Minnesota Safe Routes to School Infrastructure – SLA #13

Dear Mr. Ruiz,

We are pleased to present the attached proposal to support the City of Brooklyn Park on the subject project. Please proceed in executing this SLA #13 under the Master Consultant Services Agreement effective June 14, 2021 through June 14, 2025.

Bolton & Menk, Inc.

David Martini, P.E.
Senior Principal Engineer

We hereby accept this proposal and authorize Bolton & Menk, Inc. to proceed with this work.

Accepted by: _____

Date: _____

Printed Name: _____

Accepted by: _____

Date: _____

Printed Name: _____



City of Brooklyn Park
5200 85th Avenue N
Brooklyn Park, MN 55443

RE: **Proposal for 2023 Minnesota Safe Routes to School Infrastructure Design**

Dear Mr. Ruiz,

Thank for you allowing Bolton & Menk the opportunity to submit a proposal to provide design services for the Safe Routes to School Infrastructure Brooklyn Park plans to construct in 2025 utilizing the \$1 million grant awarded to the city by the State of Minnesota.

Project Understanding & Approach

We understand the planned 2023 Minnesota Safe Routes to School improvements include the following near Park Brook Elementary School:

- Sidewalk and pedestrian ramps:
 - o on the west side of Hampshire Ave between Brooklyn Blvd and 73rd Ave
 - o on the south side of 73rd Ave between W. Broadway Ave and Hampshire Ave
 - o on the east side of Kentucky Ave from 220 feet north of 75th Ave to 73rd Ave
 - o on the south side of 74th ½ Ave between Kentucky Ave and Janell Ave
 - o on the west side of Janell Ave between 74th ½ Ave and W. School Path
- Installation of an RRFB on Hampshire Ave from the school to Hartkopf Park
- Installation of high visibility crosswalk and signage at:
 - o Hampshire Ave and the west leg of 76th Ave
 - o Janell Ave from W. Path to the school

The planning level construction cost prepared by the city is about \$25,000 over the Safe Routes to School award amount of \$1 million. We assume the city would like to minimize cost above the grant amount that need to be covered by local funds.

Having visited all five of the roadway segments along which sidewalk is proposed to be added, several topographic features exist behind the curb, including utility poles, light poles, trees/shrubs, fences, and retaining walls. We will work with city staff early in the project development process to identify the proposed sidewalk section (attached or detached) and plan for avoiding or relocating such elements. This will be important to minimizing the cost of the project, including the need to acquire right-of-way/easements.



We will work with the city's Community Engagement Division and Communications team to share information with project stakeholders. We believe the following messages will be a priority to convey to the public during project engagement:

- What improvements are being constructed
- That the improvements are largely being funded by state grant funds successfully secured by the city

- That the improvements are consistent with the previously prepared Safe Routes to School plan and 2015 City Pedestrian and Bicycle Plan
- How the proposed improvements will enhance pedestrian and bicyclist safety
- How area residents and the traveling public will be impacted during construction

In addition to the two public open houses, we suggest the city implement a project website to provide information to the public through project construction.



Project Team

Bolton & Menk has provided a full range of services for Safe Routes to School projects to several municipal clients. Since 2006, we have assisted municipalities with planning, securing funds, and/or implementation (design and construction) of Safe Routes to School projects. Our in-house staff is specially trained and focused on pedestrian and bike project planning, design, and construction; MnDOT State Aid design standards and guidelines; and ADA compliance standards and regulations. Our team understands what makes a good Safe Routes to School project and has helped guide communities through the planning and stakeholder outreach

necessary to plan, gain buy-in for, and implement effective Safe Routes to School improvements.

Our lean project team is comprised of folks you know who were selected to bring local expertise to get your project done on-time and within budget. **Derek Arens, PE** will manage the project utilizing his extensive knowledge of local roadway and trail design standards as well as the State Aid review and approval process for projects including those funded by the Safe Routes to School program. **Beth Engum, PE** will back up Derek in all aspects of managing the project and as well as lead the Community Engagement task. **Mikaela Isaacson** will utilize her communications expertise to support all engagement efforts. **Mike Larson, PE**, our traffic expert, will perform the design related to the RRFB and new pedestrian crosswalks as well as prepare the overall signing and striping plan.

Work Plan & Assumptions

The following is Bolton & Menk's work plan and assumptions by task:

Task 1: Project Management

This task includes:

- Project team meetings (via MS Teams, bimonthly, up to 4, including project kick-off)
- Project oversight (general day-to-day project management, administration, and coordination)
- One presentation to city council
- Monthly progress reports, invoices, and schedule updates

Task 2: Community Engagement

Public Involvement will consist of up to two public open house informational meetings, the first of which we anticipate will occur this fall during preliminary design. The events will focus on the proposed improvements, how they will impact the public, particularly school-aged pedestrians and bicyclists, and the project schedule. Bolton & Menk will prepare postcard mailers/invitations that we have assumed the city will print and mail. We will prepare up to three presentation boards per meeting.

Task 3: Design/Plan Production

We will prepare a preliminary layout on aerial photo identifying the proposed improvement locations for use at the public open house meetings. We will prepare and submit plans, specifications, and Engineer's Estimate for review at 95% and 100% completion milestones. All designs will follow State Aid standards as described in the State Fund User Guide and the latest ADA/PROWAG requirements. We have estimated the construction plan set will consist of 62 sheets and will include the following:

Cover Sheet	Standard Sign Placement
General Layout	Existing Conditions and Utilities
Statement of Estimated Quantities	Removals
Construction Notes/Earthwork Summary	Construction Plan
Standard Plates & Tab Index	Intersection and ADA Ramp Details
Quantity Tabulations	Drainage Plan

Typical Sections
Misc. Details (Curb & Driveway)
Ped Ramp Details
Temporary Sediment Control

Grading Plan
Turf Establishment/Erosion Control
Signing & Striping Plan
Signal & Lighting Plans

We have assumed cross sections and a profile of the proposed sidewalk will not be necessary. The construction plans will identify proposed spot elevations based on in-place curb line elevation and proposed typical sidewalk section. Special ADA curb ramp details will be provided at intersections as needed and any driveway crossing designs will utilize the MnDOT Standard Plans 5-297.254 Driveway Table format. We estimate that one light pole will need to be relocated and one small block wall will need to be removed and replaced. Because of the minimal subcut proposed and the ability to place the sidewalk at the back of curb, we assume that utility relocations/adjustments will not be needed. Lastly, MnDOT ADA pay items from the 2020 MnDOT Standard Specifications for Construction will be utilized instead of the traditional pay items for an efficient design process, less time tracking quantities in the field, allowing more time to ensure a quality product.

We have assumed the following regarding permitting needs for the project:

- The project lies within the Shingle Creek West Mississippi Watershed Management Commission, who does not have any permitting authority nor require any permits for projects.
- Proposed improvements create less than one acre of new impervious surface, therefore an NPDES permit including SWPPP will not be required.
- The city will not require any stormwater permits.

Task 4: Survey

This task includes obtaining and processing topographic field survey to produce the base map for plan production. We will survey the roadway segments along which sidewalk is proposed, including the existing curb and gutter to the right-of-way line (approximately 14' wide). We have assumed this will require three equipment set ups to capture all five roadway segments. We will place a Gopher One call and pick up existing utilities marked in the field. We establish existing right-of-way, including property corners, adjacent to the proposal improvements. We have assumed the city will provide GIS property linework and any relevant plats.

Schedule

The schedule below identifies our proposed project schedule, which achieves project bidding in April 2025 so that construction can be limited to the summer months when school is not in session.

Tasks		2024					2025				
		A	S	O	N	D	J	F	M	A	M
Project Management/Engagement											
1.0	Project Management										
	PMT Meetings (4 meetings)	X	X		X		X				
2.0	Community Engagement										
	Public Open Houses (2 total)				X		X				
Design/Plan Production/Survey											
	Preliminary Layout										
	Final Plans										
3.0	Plan Submittals (95%, 100%)										
	Develop Cost Estimates (95%, 100%)										
	Specifications										
	Bidding Support										
4.0	Survey										
		Preliminary Layout			Final Design Plans				Construction		

Estimated Fee

Below is a summary of our estimated fee by task. Per the City's request, we have included \$10,000 for right-of-way services should they be needed.

Task No.	Work Task Description	Project Manager	Principal-in-Charge	Water Resources Engineer	Design/Plan Production Lead	Traffic Lead	Surveyor	Communications / Administration	Total Hours	Total Cost
1.0	Project Management	26	18	0	0	2	0	10	56	\$9,414
2.0	Community Engagement	8	6	0	8	2	0	24	48	\$6,414
3.0	Design/Plan Production	38	15	58	85	49	0	19	264	\$39,483
4.0	Survey	2	0	0	0	0	56	0	58	\$10,700
Total Hours		74	39	58	93	53	56	53	426	
Average Hourly Rate		\$170.00	\$205.00	\$150.00	\$140.00	\$152.00	\$185.00	\$100.00		
Subtotal		\$12,580	\$7,995	\$8,700	\$13,020	\$8,056	\$10,360	\$5,300		
Subtotal Fee										\$ 66,011
Right of Way Services										\$ 10,000
Total Fee										\$ 76,011

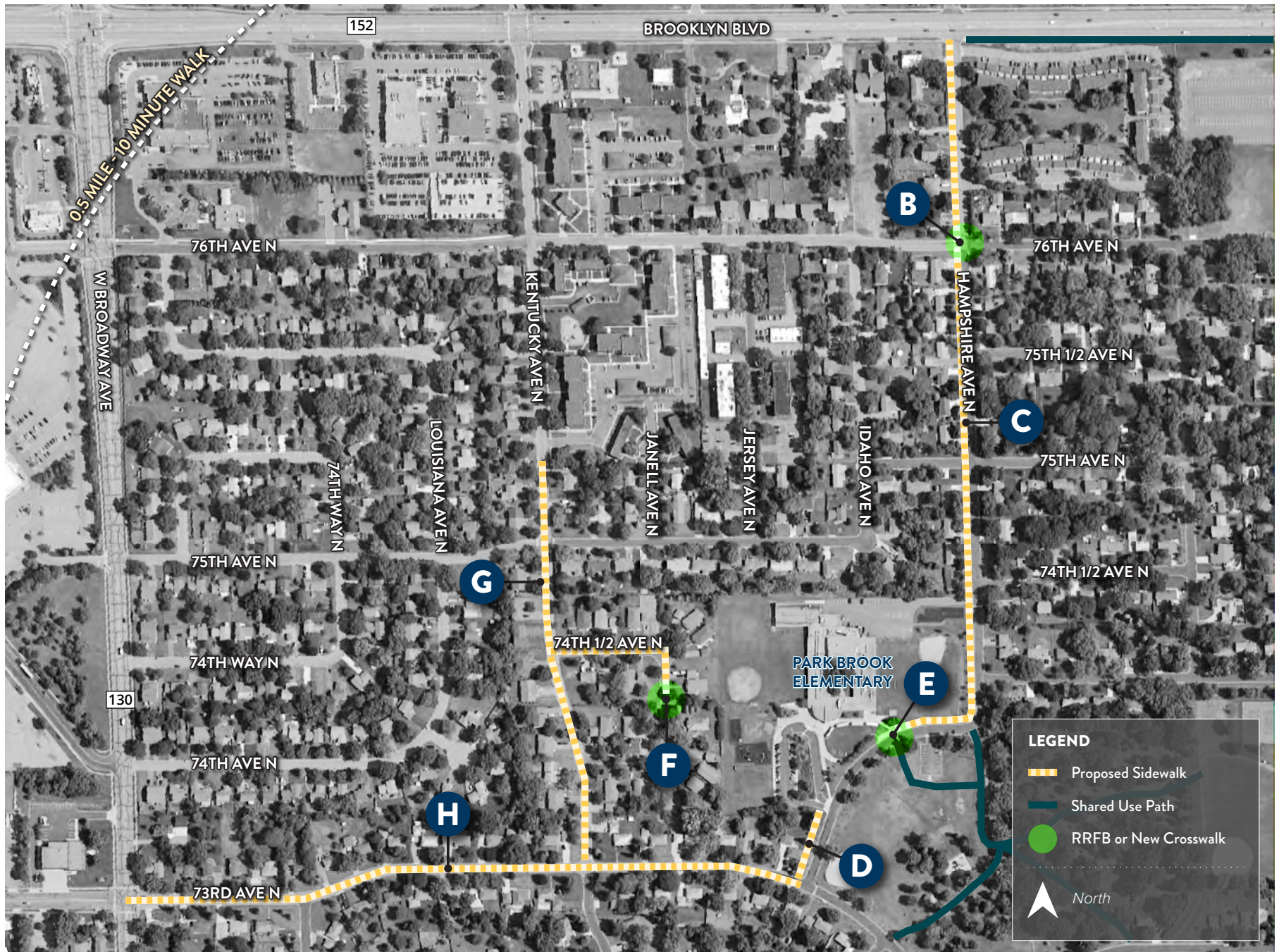
Please contact me at 612-655-1546 or derek.arens@bolton-menk.com if you have any questions.

Sincerely,
Bolton & Menk, Inc.



Derek Arens, PE
Project Manager

Project Location Map



May 14, 2024

Amber Turnquest
City of Brooklyn Park
5200 85th Avenue N
Brooklyn Park, MN 55443

Re: 2023 Safe Routes to School (SRTS) Infrastructure Program Project Selection

Dear Amber Turnquest,

Thank you for your application submittal under the 2023 Safe Routes to School (SRTS) Infrastructure Program. The Sidewalk Improvements near Park Brook and Northview Schools project in the City of Brooklyn Park was selected for SRTS Program funds appropriated by the legislature in 2023. We have identified up to \$1,000,000.00 in SRTS Infrastructure funds for this project.

Enclosed is a State Fund Grantee User Guide that provides a summary of the process for developing and delivering a state grant bond or general funded project. Your first step will be to request a State Aid Project (SAP) number for this project if you don't already have one (or SP number if you also have federal funding). Please work with your District State Aid Engineer (DSAE) on next steps and throughout the project development process. Please email the SAP number to me immediately after it is issued and include it and the program (SRTS) on all project correspondence.

Following are a few other important notes:

- Items that are eligible for SRTS Infrastructure funds include reasonable elements associated with crossing improvements, off-street facilities, on-street facilities, permanent traffic control devices (not mobile), and in-kind replacements, including basic landscaping and turf establishment. Landscaping planters, benches, bike racks, decorative fences, ornamental lighting, and other aesthetic treatments above the standard are generally not eligible. Other items that are not eligible include engineering, construction administration and inspection, right of way acquisition, and water main, sanitary sewer, or private utility work. Additionally, work on trunk highways or on trunk highway right of way is not eligible.
- Your agency will be required to execute a SRTS Infrastructure grant agreement prior to construction, which includes certification of right of way ownership by the agency and a resolution agreeing to finance any costs in excess of the grant amount before the grant can be authorized for reimbursement.
- The plan and engineer's estimate need to be developed with a separate column that identifies SRTS Infrastructure participating items only. If more than one agency will ultimately own bond or general funded improvements, there will need to be separate SRTS Infrastructure participating columns on the Engineer's Estimate for each agency. Additionally, if this is the case, separate SRTS Infrastructure grant agreements will be required with each agency that will ultimately own bond or general funded improvements.
- Design standards:
 - Work on State Aid routes are subject to State Aid standards
 - Work on non-state aid routes will need to adhere to design standards as identified in [MnDOT State Aid Rules](#), the American Association of State Highway and Transportation Official

(AASHTO) A Policy on Geometric Design of Highways and Streets, or other design standards as identified by the DSAE. Please consult with your DSAE to determine the appropriate design standards for your project.

- The DSAE will need to review, approve, and sign plans prior to advertising the construction contract.
- After DSAE plan approval, you will need a funding letter from the State Aid Programs office before advertising the construction contract. The SRTS Infrastructure amount in the funding letter will be based on a review of eligible items in the engineer's estimate.
- The State Aid Programs office will provide additional instructions for assembling and executing the SRTS Infrastructure grant agreement as part of the delivery of the funding letter.
- The final SRTS Infrastructure amount as included in one or more SRTS Infrastructure grant agreements will be based on the low bid documents. The SRTS Infrastructure grant amount is typically capped.
- The SRTS Infrastructure grant agreement should be fully executed before construction begins.

If you have questions, please contact Steven Prusak at steven.prusak@state.mn.us. I will be your main point of contact for this SRTS Infrastructure grant selection.

Sincerely,



Active Transportation Engineer

Digitally signed by Steven
Prusak
Date: 2024.05.10 13:08:51
-05'00'

Steven Prusak, P.E.
State Aid Active Transportation Engineer

copy: Dan Erickson, Metro District State Aid Engineer
enclosure: State Fund Grantee User Guide

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.5	Meeting Date:	July 29, 2024		
Agenda Section:	Consent	Originating Department:	Fire Department		
Resolution:	X				
Ordinance:	N/A			Prepared By:	Shawn Conway, Fire Chief
Attachments:	3			Presented By:	Shawn Conway, Fire Chief
Item:	Approval of Mutal Aid and Automatic Aid Agreements with the Brooklyn Center Fire Department				

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2024 _____ TO AUTHORIZE THE FIRE CHIEF TO ENTER INTO MUTUAL AID AND AUTOMATIC AID AGREEMENTS WITH THE BROOKLYN CENTER FIRE DEPARTMENT.

Overview:

Mutual aid and automatic aid agreements are collaborative arrangements between neighboring fire departments to assist each other during emergencies. Mutual aid involves a request for assistance after an incident occurs, while automatic aid is a pre-arranged agreement that dispatches aid automatically based on predetermined criteria, such as specific types of incidents or locations.

Currently, our fire department operates under these two definitions without formal agreements in place. While we are equipped to handle a range of emergencies, there are situations, particularly large-scale incidents or simultaneous emergencies, where additional resources are crucial. The proposed agreements will ensure that our department can call upon and provide aid to neighboring departments, improving our collective ability to respond to emergencies effectively.

Key Points:

- Enhanced Emergency Response:** The agreements will provide immediate access to additional resources, including personnel, apparatus, and specialized equipment, during major incidents.
- Resource Optimization:** Shared resources and coordinated efforts can prevent the duplication of services and optimize the use of available assets, leading to cost savings.
- Training and Coordination:** Regular joint training exercises with neighboring departments will improve coordination and efficiency during actual emergencies, to include improving our ISO rating.
- Community Safety:** Improved response times and capabilities will directly contribute to the safety and protection of our community.
- Legal and Financial Framework:** The agreements will outline the legal responsibilities of each party, ensuring clarity and fairness in mutual aid situations.

Benefits:

- Increased Capacity:** Access to additional firefighting and emergency medical services during critical incidents.
- Improved Safety:** Faster and more effective emergency response, reducing potential loss of life and property damage.
- Cost Efficiency:** Shared use of resources and collaborative training can lead to financial savings.
- Strong Community Relationships:** Building stronger ties with neighboring communities and their emergency services.

Approving these mutual aid and automatic aid agreements is a proactive step towards ensuring the safety and resilience of our community. It reflects a commitment to collaboration, efficiency, and the well-being of our residents. I request the Council support this request and approve the proposed agreements.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues:

The initial implementation of the agreements may require a modest increase in the budget to cover joint training and potential additional equipment. However, the long-term benefits and cost savings from shared resources and improved emergency response efficiency are expected to outweigh these initial costs.

Attachments:

- 4.5A RESOLUTION
- 4.5B MUTUAL AID AGREEMENT
- 4.5C AUTOMATIC AID AGREEMENT

RESOLUTION #2024-

RESOLUTION TO AUTHORIZE THE FIRE CHIEF TO ENTER INTO MUTUAL AID AND AUTOMATIC AID AGREEMENTS WITH THE BROOKLYN CENTER FIRE DEPARTMENT

WHEREAS, collaborative arrangements between neighboring fire departments to assist each other during emergencies; and

WHEREAS, mutual aid involves a request for assistance after an incident occurs, while automatic aid is a pre-arranged agreement that dispatches aid automatically based on predetermined criteria, such as specific types of incidents or locations; and

WHEREAS, the proposed agreements will ensure that our department can call upon and provide aid to neighboring departments, improving our collective ability to respond to emergencies effectively.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park that the City authorize the Fire Chief to enter into mutual aid and automatic aid agreements with the Brooklyn Center Fire Department.

MUTUAL AID AGREEMENT

RECITAL

This Mutual Aid Agreement ("Agreement") is made between the **City of Brooklyn Park and the City of Brooklyn Center** pursuant to Minnesota Statutes, section 471.59 which authorizes the joint and cooperative exercise of powers common to contracting parties. The intent of this Agreement is to make equipment, personnel and other resources available to political subdivisions from other political subdivisions for fire, rescue, and other emergency services.

AGREEMENT

In exchange for the mutual promises made herein, the Parties hereby agree as follows:

I. DEFINITION OF TERMS

1. "Party" or "Parties" means the City of Brooklyn Park or the City of Brooklyn Center or both.
2. "Requesting Official" means the person designated by a Party who is responsible for requesting Assistance from other Parties.
3. "Requesting Party" means a party that requests assistance from other parties.
4. "Responding Official" means the person designated by a party who is responsible to determine whether and to what extent that party should provide assistance to a Requesting Party.
5. "Responding Party" means a party that provides assistance to a Requesting Party.
6. "Assistance" means fire and/or emergency medical services personnel and/or associated equipment.
7. "Specialized Activities" means non-emergency Assistance including, but not limited to, the following: fire investigators, fire inspectors, fire educators, fire instructors, training personnel, and associated equipment and facilities.

II. AUTHORIZATION

Each of the Cities participating in this agreement hereby authorize their respective fire agencies to respond to and receive mutual aid services pursuant to the terms of this Agreement and to otherwise take such actions as are needed to provide and receive assistance as provided herein.

III. MUTUAL AID PROCEDURE

1. Request for Assistance.
Whenever, in the opinion of a Requesting Official, there is a need for assistance from the other party, the Requesting Official may call upon the Responding Official of the other party to furnish assistance.
2. Response to request.
Upon the request for assistance from the Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the responding party and the availability of resources.
3. Recall of Assistance.
The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party, when it is considered to be in the best interests of the Responding Party to do so.
4. Command of Scene.
The Requesting Party shall be in command of the mutual aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.
5. Charges for Assistance.
No charges will be levied by a Responding Party to this Agreement for assistance rendered to a Requesting Party under the terms of this Agreement unless that assistance provided for a single incident response or a group of associated incidents continues for a period of more than eight hours. If assistance provided under this Agreement continues for more than eight hours, the Responding Party may submit to the Requesting Party an itemized bill for the actual cost of assistance provided after the initial eight hour period, including salaries, overtime, materials and supplies, and other necessary expenses, and the Requesting Party will reimburse the party providing the assistance for that amount. Such charges are not contingent upon the availability of federal or state government funds.

IV. LIABILITY AND INDEMNIFICATION

For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the employees and officers of the Responding Party are deemed to be employees (as defined in Minn. Stat. § 466.01, subd. 6) of the Requesting Party.

The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or

persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this Agreement.

For purposes of determining total liability for damages pursuant to Minn. Stat. § 471.59, subd. 1a(b), the Parties are considered a single governmental unit and the total liability of the Parties shall not exceed the limits on governmental liability for a single governmental unit as specified in Minn. Stat. § 466.04, subd. 1.

Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for both of the parties may not be added together to determine the maximum amount of liability for either party. Neither Party waives any immunities or limits on liability it enjoys under Minnesota Statutes or common law.

The intent of this provision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

No party to this Agreement nor any officer of any party shall be liable to any other party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this Agreement.

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue the other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of the other party or its officers, employees, or volunteers.

V. MISCELLANEOUS

1. This Agreement may be amended by written agreement of all the Parties.
2. This Agreement is made under the law of the State of Minnesota.
3. This Agreement is entered into for the benefit of the Parties and is not intended to provide any rights to any third parties.

4. This Agreement is not exclusive and is not intended to replace any other mutual aid agreements any of the Parties may have in place.

VI. DURATION AND TERMINATION

This Agreement will be effective from the date of execution by each Party. Any party may withdraw from this Agreement upon thirty (30) days written notice to the other Party or Parties to the Agreement.

VII. EXECUTION

Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated.

IN WITNESS WHEREOF, the undersigned, have executed this Agreement on behalf of the respective Parties.

CITY OF BROOKLYN PARK

By _____, its Mayor Date _____

By _____, its City Manager Date _____

By _____, its Fire Chief Date _____

CITY OF BROOKLYN CENTER

By April Drewes, its Mayor Date 7-1-2024

By [Signature], its City Manager Date 7-1-2024

By [Signature], its Fire Chief Date 7/8/24

AUTOMATIC AID AGREEMENT

RECITAL

This Automatic Aid Agreement ("Agreement") is made between the **City of Brooklyn Park and the City of Brooklyn Center** pursuant to Minnesota Statutes, section 471.59 which authorizes the joint and cooperative exercise of powers common to contracting parties. The intent of this Agreement is to make equipment, personnel and other resources available to political subdivisions from other political subdivisions for fire, rescue, and other emergency services.

AGREEMENT

In exchange for the mutual promises made herein, the Parties hereby agree as follows:

I. DEFINITION OF TERMS

1. "Party" or "Parties" means the City of Brooklyn Park or the City of Brooklyn Center or both.
2. "Requesting Official" means the person designated by a Party who is responsible for requesting Assistance from other Parties.
3. "Requesting Party" means a party that requests assistance from other parties.
4. "Responding Official" means the person designated by a party who is responsible to determine whether and to what extent that party should provide assistance to a Requesting Party.
5. "Responding Party" means a party that provides assistance to a Requesting Party.
6. "Assistance" means fire and/or emergency medical services personnel and/or associated equipment.
7. "Specialized Activities" means non-emergency Assistance including, but not limited to, the following: fire investigators, fire inspectors, fire educators, fire instructors, training personnel, and associated equipment and facilities.

II. AUTHORIZATION

Each of the Cities participating in this agreement hereby authorize their respective fire agencies to respond to and receive Automatic Aid services pursuant to the terms of this Agreement and to otherwise take such actions as are needed to provide and receive assistance as provided herein.

III. AUTOMATIC AID PROCEDURE

1. Request for Assistance.
Whenever, in the opinion of a Requesting Official, there is a need for assistance from the other party, the Requesting Official may call upon the Responding Official of the other party to furnish assistance.
2. Response to request.
Upon the request for assistance from the Requesting Party, the Responding Official may authorize and direct his/her party's personnel to provide assistance to the Requesting Party. This decision will be made after considering the needs of the responding party and the availability of resources.
3. Recall of Assistance.
The Responding Official may at any time recall such assistance when in his or her best judgment or by an order from the governing body of the Responding Party, when it is considered to be in the best interests of the Responding Party to do so.
4. Command of Scene.
The Requesting Party shall be in command of the Automatic Aid scene. The personnel and equipment of the Responding Party shall be under the direction and control of the Requesting Party until the Responding Official withdraws assistance.
5. Charges for Assistance.
No charges will be levied by a Responding Party to this Agreement for assistance rendered to a Requesting Party under the terms of this Agreement unless that assistance provided for a single incident response or a group of associated incidents continues for a period of more than eight hours. If assistance provided under this Agreement continues for more than eight hours, the Responding Party may submit to the Requesting Party an itemized bill for the actual cost of assistance provided after the initial eight hour period, including salaries, overtime, materials and supplies, and other necessary expenses, and the Requesting Party will reimburse the party providing the assistance for that amount. Such charges are not contingent upon the availability of federal or state government funds.

IV. LIABILITY AND INDEMNIFICATION

For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the employees and officers of the Responding Party are deemed to be employees (as defined in Minn. Stat. § 466.01, subd. 6) of the Requesting Party.

The Requesting Party agrees to defend and indemnify the Responding Party against any claims brought or actions filed against the Responding Party or any officer, employee, or volunteer of the Responding Party for injury to, death of, or damage to the property of any third person or

persons, arising from the performance and provision of assistance in responding to a request for assistance by the Requesting Party pursuant to this Agreement.

For purposes of determining total liability for damages pursuant to Minn. Stat. § 471.59, subd. 1a(b), the Parties are considered a single governmental unit and the total liability of the Parties shall not exceed the limits on governmental liability for a single governmental unit as specified in Minn. Stat. § 466.04, subd. 1.

Under no circumstances, however, shall a party be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for both of the parties may not be added together to determine the maximum amount of liability for either party. Neither Party waives any immunities or limits on liability it enjoys under Minnesota Statutes or common law.

The intent of this provision is to impose on each Requesting Party a limited duty to defend and indemnify a Responding Party for claims arising within the Requesting Party's jurisdiction. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among defendants, and to permit liability claims against multiple defendants from a single occurrence to be defended by a single attorney.

No party to this Agreement nor any officer of any party shall be liable to any other party or to any other person for failure of any party to furnish assistance to any other party, or for recalling assistance, both as described in this Agreement.

Each party shall be responsible for injuries or death of its own personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing assistance pursuant to this Agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependents, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

Each party shall be responsible for damages to or loss of its own equipment. Each party waives the right to sue the other party for any damages to or loss of its equipment, even if the damages or losses were caused wholly or partially by the negligence of the other party or its officers, employees, or volunteers.

V. MISCELLANEOUS

1. This Agreement may be amended by written agreement of all the Parties.
2. This Agreement is made under the law of the State of Minnesota.
3. This Agreement is entered into for the benefit of the Parties and is not intended to provide any rights to any third parties.

4. This Agreement is not exclusive and is not intended to replace any other Automatic Aid agreements any of the Parties may have in place.

VI. DURATION AND TERMINATION

This Agreement will be effective from the date of execution by each Party. Any party may withdraw from this Agreement upon thirty (30) days written notice to the other Party or Parties to the Agreement.

VII. EXECUTION

Each party hereto has read, agreed to and executed this Automatic Aid Agreement on the date indicated.

IN WITNESS WHEREOF, the undersigned, have executed this Agreement on behalf of the respective Parties.

CITY OF BROOKLYN PARK

By _____, its Mayor Date _____

By _____, its City Manager Date _____

By _____, its Fire Chief Date _____

CITY OF BROOKLYN CENTER

By April Shaver, its Mayor Date 7-1-2024

By [Signature], its City Manager Date 7-1-2024

By [Signature], its Fire Chief Date 7/8/24

City of Brooklyn Park Request for Council Action			
Agenda Item:	4.6	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Operations and Maintenance
Resolution:	X	Prepared By:	Craig Runnakko, Construction Engineer
Ordinance:	N/A		
Attachments:	2	Presented By:	Dan Ruiz, Director of Operations and Maintenance
Item:	Resolution Approving Change Orders 1-4 for 63 rd Ave Trail and Municipal State Aid (MSA) Mill and Overlay, CIP 4044		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2024 _____ APPROVING CHANGE ORDERS 1-4 FOR 63RD AVE TRAIL AND MUNICIPAL STATE AID (MSA) MILL AND OVERLAY, CIP 4044.

Overview:

Project CIP 4044 combines a Municipal State Aid (MSA) Mill and Overlay on 63rd Ave between Mendelssohn Ave and Boone Ave with the construction of a trail on the south side of 63rd Ave from Mendelssohn Ave to West Broadway. Additional maintenance work will be completed on the city's storm sewer and watermain systems. This new trail in conjunction with MnDOT's replacement of the 63rd Ave bridge over TH169 will complete the trail system along 63rd Ave connecting Brooklyn Park, Brooklyn Center and Maple Grove.

During construction there were unforeseen issues that took place. The costs to address these issues resulted in \$61,517.87 of additional expenditures.

- Jersey Barriers to protect the workers and travelling public at watermain rehab locations on site.
- Wood fence removal and replacement to enable grading a mowable slope at two properties.
- Road Diet along 63rd Ave adjacent to 6297 Yukon Ave rather than obtaining an easement and removing wood fence to enable a mowable slope behind the trail.
- Geotextile fabric installation in locations under the trail where the subgrade was too soft to build the trail.
- Overrun in Bituminous Patching quantities due to the thickness of the pavement along 63rd Ave.

It is not unusual for projects of this type to require additional items due to circumstances or conditions that were not expected at the time of plan preparation or during construction. All the items noted above are amendments to Schedule A and therefore they are included as a change order. This change order will increase the original contract value (\$1,090,190.41) by \$61,517.87 or 5.64%. Staff recommends that the City Council approve Change Order No. 1.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues:

The project is included in the adopted 2024-2028 Capital Improvement Plan (CIP) for a scheduled 2024 completion as project CIP No. 4044 with an estimated cost of \$980,000.00 in addition to CIP No 4002-24 with

an estimated cost of \$300,000.00. In accordance with City policies, the City is proposing to pay for the project with a Federal grant, Hennepin County grant, MSA funds, City, Park Referendum Bond, Water Utility Funds and Storm Sewer Utility Funds. The funding for the change orders was approved by MnDOT for utilizing Federal and State Aid funds.

Attachments:

- 4.6A RESOLUTION
- 4.6B LOCATION MAP
- 4.6C CHANGE ORDERS 1-4

RESOLUTION #2024-

RESOLUTION APPROVING CHANGE ORDERS 1-4 FOR
63RD AVE TRAIL AND MUNICIPAL STATE AID (MSA) MILL AND OVERLAY, CIP 4044

WHEREAS, the City of Brooklyn Park has an existing contract with Park Construction Company, Inc., dated April 8, 2024, said contract being let pursuant to statute and after advertising for bids; and

WHEREAS, said contract was awarded on a unit price basis; and

WHEREAS, in the proper performance of the contract unforeseen conditions were encountered requiring construction units exceeding that normally required and bid; and

WHEREAS, it is now the desire of the council to include additional units at the same unit price and units for which no item in the contract is provided to complete the following improvements:

CHANGE ORDERS 1-4

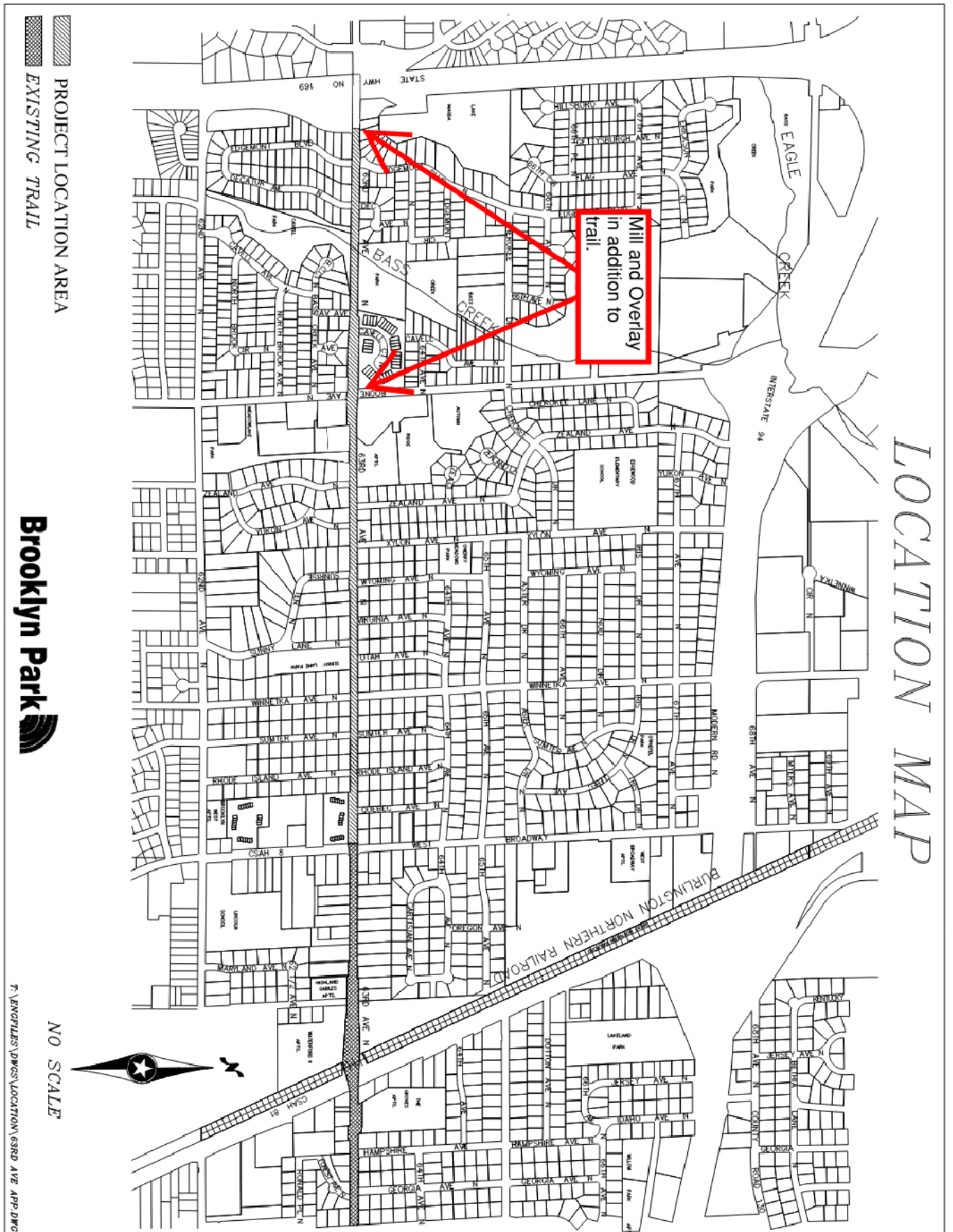
CIP PROJECT 4002-24 Total Additions: \$61,517.87

WHEREAS, the additional units do not exceed 25% of the original contract value; and

WHEREAS, the contractor, Park Construction Company, Inc., has agreed to add such additional units at the same unit price in accordance with the mutually agreed upon compensation in accordance with the General Conditions Section of the Contract Specifications Paragraphs GC 4.3, 4.4 and 7.4 and all in accordance with Chapter 429.041 Subd. 7 of the Minnesota Laws.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park.

1. The Mayor and City Manager are hereby authorized and directed to enter into a contract with Park Construction Company, Inc. for additional units of work, at a cost of \$61,517.87 in the name of the City of Brooklyn Park for the aforesaid improvements, according to the plans and specifications on file in the Office of the City Clerk.
2. The Contractor shall file an increased bond to cover \$1,151,708.28 the full contractual amount, and the contractor's written agreement to add to the existing contract shall be placed on file with the Clerk and made a part of the original contract, all in accordance with Chapter 429.041, Subd. 7 of Minnesota Laws.





STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SP 110-103-017	MN Project No.:	TA2724(148)	Change Order No.	1
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Project Location			
Local Agency	Brooklyn Park	Local Project No.	4044-23
Contractor	Park Construction Company	Contract No.	CIP 4044-23
Address/City/State/Zip	1481 81st Avenue NE / Minneapolis / MN / 55432		
Total Change Order Amount		\$1,766.70	

Issue: The Engineer has determined the Contract needs to be revised in accordance with specification 1402.5 - Extra Work

Gate Valve #36 replacement is on the edge of the traffic lane at Boone Ave and the watermain replacement work at Edgemont Blvd goes all the way across 63rd. Having Jersey barriers in these areas will keep the utility workers and traffic safe.

Resolution:

The Contractor will Install 70LF of Jersey barriers between the two sites to protect the workers and traveling public.

Entitlement: Payment for this work will be at the negotiated price of \$1,766.70 which include all mark ups.

Contract Time - is not changed

Estimate Of Cost: (Include any increases or decreases in contract items, any negotiated or force account items.)

Group/Funding Category**	Item No.	Description	Unit	Unit Price	+ or - Quantity	+ or - Amount \$
SP 110-103-017	2554.601	TRAFFIC BARRIERS	LS	\$1,766.70	1	\$1,766.70
Net Change this Change Order						\$1,766.70

****Group/funding category is required for federal aid projects**

2554.601 is funded 100% from Group 1

1 - SP 110-103-017 (100% Municipal (MSAS > 5000))

Project Engineer: **Craig Runnakko**

Date: **5/8/2024**

Print Name: **Craig Runnakko**

Phone:

Contractor: **Charlie Borene**

Date: **5/8/2024**

Print Name: **Charlie Borene**

Phone: **763-786-9800**



STATE AID FOR LOCAL TRANSPORTATION
CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SP 110-103-017	MN Project No.:	TA2724(148)	Change Order No.	1
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DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for **FUNDING PURPOSES ONLY** and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for:

☒ Federal Funding
☒ State Aid Funding
☒ Local/Other Funds

District State Aid Engineer: **Michael Pretel** Date: **5/16/2024**



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SAP 110-103-017	MN Project No.:	N/A	Change Order No.	2
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Project Location			
Local Agency	Brooklyn Park	Local Project No.	4044-23
Contractor	Park Construction Company	Contract No.	CIP 4044-23
Address/City/State/Zip	1481 81st Avenue NE / Minneapolis / MN / 55432		
Total Change Order Amount		\$5,301.92	

Issue: The Engineer has determined the Contract needs to be revised in accordance with specification 1402.5 - Extra Work

WHEREAS: This contract provides for, among other things, Grading, Bituminous Trail, Bituminous Surfacing, Concrete Curb, Storm Sewer, Watermain on SP 110-103-017 on 63rd Ave between Mendelssohn Ave N and West Broadway; and WHEREAS: This contract further provides for work beyond the Right of Way in the Easements which were purchased for this project and in the existing slope easement; and WHEREAS: There is a 6 foot wooden fence in between where we would need to grade to provide a mowable slope between the residential driveway and the new trail; and WHEREAS: the existing fence is not salvageable;

Resolution:

The Contractor will ensure the slope is not too abrupt and will remove the fence to grade further back into the easement and replace with a new 6 foot wood fence after the grading work is completed;

Entitlement: NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED AND UNDERSTOOD THAT: 1. Payment for this work will be at the negotiated price of \$5,301.92 which includes all mark ups. 2. This Change Order covers the known and anticipated costs and contract time adjustment (0 days) attributable to the work covered by the Change Order. If the Contractor incurs unknown and unanticipated additional work that affects costs or impacts the critical path, the Contractor reserves the right to request an adjustment to the Contract amount or Contract time in accordance with MnDOT 1402.

Contract Time - is not changed

Estimate Of Cost: (Include any increases or decreases in contract items, any negotiated or force account items.)						
Group/Funding Category**	Item No.	Description	Unit	Unit Price	+ or - Quantity	+ or - Amount \$
SP 110-103-017	2104.503	REMOVE WOOD FENCE	L F	\$11.00	52	\$572.00
SP 110-103-017	2557.603	WOODEN FENCE	L F	\$90.96	52	\$4,729.92
Net Change this Change Order						\$5,301.92

****Group/funding category is required for federal aid projects**

All items are funded 100% from Group 1



STATE AID FOR LOCAL TRANSPORTATION
CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SAP 110-103-017	MN Project No.:	N/A	Change Order No.	2
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1 - SP 110-103-017 (100% Municipal (MSAS > 5000))

Project Engineer: **Craig Runnakko**

Date: **5/24/2024**

Print Name: **Craig Runnakko**

Phone:

Contractor: **Charlie Borene**

Date: **5/29/2024**

Print Name: **Charlie Borene**

Phone: **763-786-9800**

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for **FUNDING PURPOSES ONLY** and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for:

X
X
X

Federal Funding

State Aid Funding

Local/Other Funds

District State Aid Engineer: **Michael Pretel**

Date: **5/30/2024**



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SAP 110-103-017	MN Project No.:	N/A	Change Order No.	3
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Project Location			
Local Agency	Brooklyn Park	Local Project No.	4044-24
Contractor	Park Construction Company	Contract No.	CIP 4044-24
Address/City/State/Zip	1481 81st Avenue NE / Minneapolis / MN / 55432		
Total Change Order Amount		\$49,182.45	

Issue: The Engineer has determined the Contract needs to be revised in accordance with specification 1402.5 - Extra Work

WHEREAS: This contract provides for, among other things, Grading, Bituminous Trail, Bituminous Surfacing, Concrete Curb, Storm Sewer, Watermain on SP 110-103-017 on 63rd Ave between Mendelssohn Ave N and West Broadway; and WHEREAS: This project has an approved variance for a one foot clear zone on each side of the approved trail; and WHEREAS: This work falls within the approved variance; and WHEREAS: the slopes between the trail and the project limits along 6297 Yukon Ave were steeper than 1:3; and WHEREAS: there were no easements or Right of Way obtained to work beyond the property line; and WHEREAS: the space was available within the roadway section to move the trail towards the road centerline and maintain State Aid Standards; and WHEREAS: the Engineer decided a road diet was appropriate to alleviate the grading and property right access issues;

Resolution:

The Agency will

The Contractor will remobilize to sawcut, remove curb, roadway, cross gutter, 6" concrete walk and pedestrian ramp and will excavate and grade, install B618 concrete curb and gutter, 8" cross gutter, 6" concrete walk, aggregate base class 5, bituminous patch and truncated domes as shown on the revised sheet 32 of the plans.

Entitlement: NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED AND UNDERSTOOD THAT: 1. Payment for this work will be at the negotiated price of \$49,182.45 which includes all mark ups. 2. This Change Order covers the known and anticipated costs and contract time adjustment (5 days) attributable to the work covered by the Charge Order. If the Contractor incurs unknown and unanticipated additional work that affects costs or impacts the critical path, the Contractor reserves the right to request an adjustment to the Contract amount or Contract time in accordance with MnDOT 1402.

Contract Time - is increased by 5 working days

Estimate Of Cost: (Include any increases or decreases in contract items, any negotiated or force account items.)

Group/Funding Category**	Item No.	Description	Unit	Unit Price	+ or - Quantity	+ or - Amount \$
SP 110-103-017	1	Mobilization	LS	\$15,900.00	1	\$15,900.00
SP 110-103-017	2041.6 01	BOND INTEREST	LS	\$195.95	1	\$195.95



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SAP 110-103-017	MN Project No.:	N/A	Change Order No.	3
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SP 110-103-017	2104.503	Remove Curb & Gutter All Types	LF	\$20.50	176	\$3,608.00
SP 110-103-017	2104.504	Remove Bituminous Roadway	SQ YD	\$17.10	117	\$2,000.70
SP 110-103-017	2104.509/0006011	REMOVE CONCRETE CROSS GUTTER	SQ YD	\$23.40	27	\$631.80
SP 110-103-017	2104.513	SAWING BIT PAVEMENT (FULL DEPTH)	L F	\$2.05	272	\$557.60
SP 110-103-017	2104.518	Remove Concrete Sidewalk	SQ YD	\$25.80	24	\$619.20
SP 110-103-017	2106.507	EXCAVATION - COMMON	C Y	\$125.00	9	\$1,125.00
SP 110-103-017	2211.507	AGGREGATE BASE (CV) CLASS 5	C Y	\$68.40	28	\$1,915.20
SP 110-103-017	2231.509	BITUMINOUS PATCHING MIXTURE	TON	\$252.00	20	\$5,040.00
SP 110-103-017	2521.518	6" CONCRETE SIDEWALK	SY	\$19.80	250	\$4,950.00
SP 110-103-017	2531.503	CONCRETE CURB & GUTTER DESIGN B618	L F	\$35.60	176	\$6,265.60
SP 110-103-017	2531.507	8" CONCRETE PAVEMENT CROSS GUTTER	S Y	\$127.00	27	\$3,429.00
SP 110-103-017	2531.618	TRUNCATED DOMES	S F	\$43.30	68	\$2,944.40
Net Change this Change Order						\$49,182.45

****Group/funding category is required for federal aid projects**

All items are funded 100% from Group 1

1 - SP 110-103-017 (100% Municipal (MSAS > 5000))

Project Engineer: **Craig Runnakko**

Date: **7/17/2024**

Print Name: **Craig Runnakko**

Phone:

City 2nd Level Approval: **Jay Stroebe**

Date: **7/18/2024**

Print Name: **Jay Stroebe**

Phone: **763-493-8002**

Contractor: **Charlie Borene**

Date:



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SAP 110-103-017	MN Project No.:	N/A	Change Order No.	3
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Print Name: Charlie Borene

Phone: 763-786-9800

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for **FUNDING PURPOSES ONLY** and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for:

☒

☒

☒

Federal Funding
State Aid Funding
Local/Other Funds

District State Aid Engineer: Michael Pretel

Date:



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SP 110-103-017	MN Project No.: TA 2724(148)	N/A	Change Order No.	4
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Project Location			
Local Agency	Brooklyn Park	Local Project No.	4044-24
Contractor	Park Construction Company	Contract No.	CIP 4044-24
Address/City/State/Zip	1481 81st Avenue NE / Minneapolis / MN / 55432		
Total Change Order Amount		\$5,266.80	

Issue: The Engineer has determined the Contract needs to be revised in accordance with specification 1402.5 - Extra Work

WHEREAS: This contract provides for, among other things, Grading, Bituminous Trail, Bituminous Surfacing, Concrete Curb, Storm Sewer, Watermain on SP 110-103-017 on 63rd Ave between Mendelssohn Ave N and West Broadway; and WHEREAS Soft areas were encountered in the subgrade of the trail section; and WHEREAS: The City's Geotechnical Consultant recommended geotextile fabric separation ; and WHEREAS: the Engineer decided to use Type 9 geotextile fabric to separate the soft soils from the new trail section in those areas;

Resolution:

The Contractor will place Geotextile Type 9 fabric in locations determined to need separation from the existing soft subgrade.

Entitlement: Payment for this work will be at the negotiated unit price of \$3.42/SY with an estimated total of \$5,266.80 which includes all mark ups. 3. This Change Order covers the known and anticipated costs and contract time adjustment (0 days) attributable to the work covered by the Charge Order. If the Contractor incurs unknown and unanticipated additional work that affects costs or impacts the critical path, the Contractor reserves the right to request an adjustment to the Contract amount or Contract time in accordance with MnDOT 1402.

Contract Time - is not changed

Estimate Of Cost: (Include any increases or decreases in contract items, any negotiated or force account items.)						
Group/Funding Category**	Item No.	Description	Unit	Unit Price	+ or – Quantity	+ or – Amount \$
SP 110-103-017	2105.604	GEOTEXTILE FABRIC TYPE 9	SY	\$3.42	1540	\$5,266.80
Net Change this Change Order						\$5,266.80

****Group/funding category is required for federal aid projects**

2105.604 is funded 100% from Group 1

1 - SP 110-103-017 (100% Municipal (MSAS > 5000))



STATE AID FOR LOCAL TRANSPORTATION CHANGE ORDER

Rev. December 2023

SP/SAP(s)	SP 110-103-017	MN Project No.: TA 2724(148)	N/A	Change Order No.	4
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Project Engineer: **Craig Runnakko**Date: **7/19/2024**Print Name: **Craig Runnakko**

Phone:

City 2nd Level Approval: **Dan Ruiz**Date: **7/19/2024**Print Name: **Dan Ruiz**

Phone:

Contractor: **Charlie Borene**

Date:

Print Name: **Charlie Borene**Phone: **763-786-9800**

DSAE Portion: The State of Minnesota is not a participant in this contract. Signature by the District State Aid Engineer is for **FUNDING PURPOSES ONLY** and for compliance with State and Federal Aid Rules/Policy. Eligibility does not guarantee funds will be available.

This work is eligible for:

☒

Federal Funding

☒ State Aid Funding

☒ Local/Other Funds
District State Aid Engineer: **Michael Pretel**

Date:

City of Brooklyn Park

Request for Council Action

Agenda Item:	4.7	Meeting Date:	July 29, 2024
Agenda Section:	Consent	Originating Department:	Operations and Maintenance
Resolution:	X	Prepared By:	Greg Hoag, Park and Building Maintenance Manager
Ordinance:	N/A		
Attachments:	1	Presented By:	Dan Ruiz, Operations and Maintenance Director
Item:	Accept 2024-2025 Healthy Tree Canopy Grant from Hennepin County		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT RESOLUTION #2024-____ TO ACCEPT A GRANT FROM HENNEPIN COUNTY FOR THE 2024-2025 HEALTHY TREE CANOPY GRANT PROGRAM, AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT.

Overview:

Emerald ash borer (EAB) is a non-native insect that infests and kills ash trees. EAB was first discovered in Brooklyn Park in August 2017. The cost to remove and replace all public ash trees in Brooklyn Park is estimated to be \$5 to \$6 million.

In January 2024, Hennepin County opened a Healthy Tree Canopy Grant Solicitation process. The goals of the grant are to assist communities in managing ash trees for EAB. Staff applied for funds through this solicitation process in March. Recently, Hennepin County notified staff of a grant award of \$50,000 to Brooklyn Park.

Primary Issues/Alternatives to Consider:

Operations and Maintenance staff recommend acceptance of the grant as presented.

Budgetary/Fiscal Issues:

This grant has a 25% match requirement. The Grant award is \$50,000, with a city match of \$12,500. Matching funds will be available in the 2024 and 2025 forestry expenses from both the EAB Capital Fund and the Park Maintenance Forestry General Fund budget. The work for this grant will take place in 2024 and 2025. The 2024 grant fund budget will be amended as needed to include the \$50,000.

Attachments:

4.7A RESOLUTION

RESOLUTION #2024-

RESOLUTION TO ACCEPT A GRANT FROM HENNEPIN COUNTY
FOR THE 2024-2025 HEALTHY TREE CANOPY GRANT PROGRAM, AND AUTHORIZE
THE CITY MANAGER TO ENTER INTO AN AGREEMENT

WHEREAS, in January 2024, Hennepin County opened a grant solicitation for the 2024-2025 Healthy Tree Canopy Grant Program; and

WHEREAS, Operations and Maintenance staff submitted an application for \$50,000 from this grant program; and

WHEREAS, in July 2024, Hennepin County awarded Brooklyn Park a \$50,000 grant; and

WHEREAS, the grant requires a 25% match, which is \$12,500; and

WHEREAS, the City of Brooklyn Park will amend the 2024 grant fund budget for this grant; and

WHEREAS, the City of Brooklyn Park must formally accept the grant award from Hennepin County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Park to accept the Grant of \$50,000 from Hennepin County, and will fund the city's required match through the EAB Capital Improvement Fund and the Park Maintenance Forestry General Fund budgets, and authorize the City Manager to enter into an Agreement with Hennepin County for the 2024-2025 Healthy Tree Canopy Grant Program.

City of Brooklyn Park Request for Council Action

Agenda Item:	6.1	Meeting Date:	July 29, 2024
Agenda Section:	Land Use Actions	Originating Department:	Community Development
Resolution:	N/A		
Ordinance:	SECOND READING		
Attachments:	4		
Item:	Zoning Code Text Amendments (Chapters 150, 151, 152, and 153); Second Reading		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2024-_____ AMENDING CHAPTERS 150, 151, 152, AND 153, TITLE XV: LAND USAGE OF THE BROOKLYN PARK CODE FOR CONSISTENCY WITH THE BROOKLYN PARK 2040 COMPREHENSIVE PLAN.

MOTION _____, SECOND _____, TO APPROVE THE TEXT OF THE SUMMARY OF ORDINANCE #2024-_____ DETERMINING THAT IT CLEARLY INFORMS THE PUBLIC OF THE INTENT AND EFFECT OF THE ORDINANCE.

Overview:

First Reading:

The City Council held the first reading of this Code amendment at the June 24, 2024 City Council Regular Meeting, and voted unanimously (6-0) to approve the first reading. At this meeting City Council requested staff invite the Department of Natural Resources Area Hydrologist who has overseen the Mississippi River Corridor Critical Area (MRCCA) ordinance for the City to speak to Council. The DNR representative has declined this request, but has answered in writing the questions posed by councilmembers and property owners. The correspondence can be viewed in Attachment D. During the first reading it was also called to question if the text of the proposed MRCCA ordinance had changed between the February 14, 2024 Planning Commission meeting at which the public hearing was held. To confirm that no changes occurred between the public hearing and first reading, staff has attached the text as presented to the Planning Commission.

Planning Commission:

The Code update was taken to the Planning Commission in portions to allow for dedicated focus and to manage the amount of information at each meeting. The Commission held work sessions on February 28, March 27, and April 24, 2024 to discuss proposed changes to the Code. During those work sessions, Commissioners and staff reviewed and thoroughly discussed each chapter by section.

The Planning Commission voted unanimously to transmit amendments to Chapters 150, 151, 152, and 153 of the Brooklyn Park Code of Ordinances to the City Council with a recommendation to approve. Public Hearings were held on March 13, April 10, and May 8, 2024, during the regular meeting of the Planning Commission.

Summary:

The Brooklyn Park City Council (Council) adopted the Brooklyn Park 2025 community plan in February 2017. Roughly 1,000 participants supported this yearlong effort which captured resident and staff input and

documented the City's goals. That process involved many public engagement sessions to understand the vision that Brooklyn Park residents had for the city as it grows and changes, including a visioning session in 2016, public open house in 2017, mailed notices, door knocking, and surveys sent to residents. Building upon that work, the Brooklyn Park Planning Commission held a public hearing in 2018 over a two month period in March and April on the 2040 Comprehensive Plan (2040 Plan). The Council voted on the final draft on May 29, 2018, with the comment period closing on October 26, 2018. The 2040 Plan was approved for submission to the Metropolitan Council (Met Council) for final review on December 10, 2018.

The 2040 Plan looked at the entire community with an emphasis on special planning areas. The City identified a need to address community-wide issues and desires, redevelopment and reinvestment in the older parts of the community, sustainability of new development, and to create a "community of the whole".

The City Council adopted the 2040 Comprehensive Plan on March 30th, 2020. State law requires that official controls – the Zoning Code – be updated within 9 months of Plan adoption. The consultant firm, WSB, who worked on the 2040 Plan was retained to work on the Zoning Code Update. The challenges associated with the COVID-19 pandemic, staff turnover in the Planning Division, and the 2023 development moratorium all contributed to a delay in completing this work.

Along with the statutorily required changes, technical updates were made to the entire Land Usage Title of the Brooklyn Park Code of Ordinance. Title XV includes four chapters, which are listed below with a highlight of the changes:

Chapter 150 Signs

Technical changes that clarify regulations in zoning districts.

Chapter 151 Subdivisions

Technical changes to update referenced information.

Chapter 152 Zoning Code

The bulk of the proposed changes to the Land Usage Title are in the Zoning Code. Following is a summary of the changes:

Consistency with 2040 Comprehensive Plan

The menu of zoning districts in the code will now match the future land use categories in the 2040 Comprehensive Plan, and the zoning map will match the future land use map in the 2040 Comprehensive Plan. This is required by state statute and is good practice in ensuring that property owners have the development rights conferred by the Comprehensive Plan.

Code Streamlining

- Reorganization of the code into more into a more intuitive order of topic areas, improving readability and making the code much easier to administer.
- Reducing the number of Residential zoning districts from 11 to 5
- Replacement of the PUD, PCDD, and VR districts with Neighborhood Mixed Use, and Mixed Use districts. The PUD and PCDD districts were established to facilitate greenfield development that has since been completed and have served their purpose. They are difficult to administer when property owners make changes to their property. Properties with these districts will be rezoned primarily to Residential districts as shown in the Comprehensive Plan. The VR district was established to facilitate redevelopment of the Village Creek area with traditional urban form. The district lacks the detail necessary to administer on a day-to-day basis and all uses are conditional, making routine use changes difficult for business owners. The VR district is replaced with the Neighborhood Mixed Use district.

Improvements for Businesses

Some uses in the Business zoning districts will be moving from Conditional (requiring a Conditional Use Permit) to Permitted (allowed without the need to obtain a Conditional Use Permit). For these uses, staff and the Planning Commission have observed that requiring a CUP has been an unnecessary

process for businesses to go through, adding time and expense to the process of starting a business or relocating to Brooklyn Park. The following uses will move from Conditional to Permitted:

- Restaurant, Class II
- Restaurant, Brewpub
- Theater, excluding drive-ins

The updated code also newly allows outdoor seating as an accessory use, making it easier for restaurants to incorporate patios into their businesses. This had been allowed temporarily during COVID restrictions, and this update would make it permanent.

Mississippi River Corridor Critical Area (MRCCA)

In 2017, the Minnesota Legislature passed a law requiring all cities within the Mississippi River Corridor Critical Area (MRCCA) to adopt updated regulations protecting the river. The proposed amendment must be adopted into the Zoning Ordinance to comply with state law (Minn. Rule 6106.0070 Subp. 5.). The Department of Natural Resources (DNR) provided a model ordinance for each municipality affected by the MRCCA to adopt. The standards within this amendment are the same standards against which the DNR was previously reviewing development. By adopting this language into ordinance, it provides transparency to the property owners impacted by these regulations.

Staff mailed an informational letter to all impacted property owners prior to the mailing of the public hearing notice, as well as posted the proposed Ordinance text on the City website. There were 6 emails and 47 phone calls received by staff from the property owners with questions regarding the changes and how they would impact each property.

At the March 13, 2024, regular meeting, the Planning Commission held a public hearing on the MRCCA ordinance and directed staff to hold additional public engagement and meet with impacted property owners. Staff held an open house for the MRCCA Code Update on April 24, 2024. Attendees proposed a few changes to the draft ordinance that would have increased flexibility for property owners. The DNR rejected these changes as inconsistent with the intent of the MRCCA. Documentation of the open house is available at <https://www.brooklynpark.org/planning-zoning-and-development/2024-land-usage-code-update/>

Crystal Airport Zoning

The Metropolitan Airports Commission led a process with the communities surrounding the Crystal Airport to develop an update zoning ordinance to ensure that development surrounding the airport is compatible with aviation safety. The ordinance is already in effect, and cities are required by state statute to incorporate the ordinance into their own zoning codes.

This is a very technical ordinance, which is necessary to meet the requirements of state statute and the needs of aviation safety. The ordinance will have minimal practical effect on properties near the airport, because in most cases the maximum height of structures allowed by the airport ordinance exceeds the maximum height requirement of the underlying zoning. The land use restrictions of the airport ordinance are similarly more permissive than the underlying City of Brooklyn Park zoning.

Chapter 153 Stormwater Management

Technical changes to update referenced information.

City Staff made additional technical changes to ensure all chapters in the land use title of the code was in compliance with the Comprehensive Plan. Those changes are outlined in the tables below, organized by chapter.

Chapter 150 Signs:

Section	Title	Summary of Changes
150.01	Short title	Updated for consistency across LU chapters

150.02	Purpose and Intent	Grammar, and the addition of a severability clause
150.03	Definitions	Updated for consistency across LU chapters
150.04	General Provisions Applicable to All Zoning Districts	Grammar, and added Minnesota Building Code requirement. Removed content restrictions per legal recommendation. Added projecting signs as permitted with size requirements.
150.05	Prohibited Signs	Removed prohibition from projecting signs.
150.06	Temporary Signs	Removed content restrictions per legal recommendation. Added clarification to requirements for enforcement purposes at the request of the Environmental Health Division.
150.08	Variances	Updated for consistency across LU chapters, all variances are governed by MN Statute and must be processed consistently.
150.09	Sign Application	Technical changes for consistency
150.10	Bond and License	Technical changes for consistency
150.11	Construction Standards	Removed specific Building Code citation, replacing with a broader citation to reduce the need for future amendments.
150.13	Enforcement	Technical changes for consistency
150.14	Violations	Technical changes for consistency
150.15	Right of Appeal	Technical changes for consistency
150.25	R-1, R-2, R-3 and R4 Residential Districts	Updated name of section and zoning district references to reflect the residential districts that will exist once Chapter 152 is amended.
150.26	Multiple Residential Districts	Updated name of section and zoning district references to reflect the residential districts that will exist once Chapter 152 is amended.
150.29	BP Business Park and I General Industrial Districts	Technical changes for consistency
150.30	PCDD Planned Community Development District and PUD Planned Unit Development District	Struck to reflect the districts that will exist once Chapter 152 is amended.
150.32	Highway Overlay	Struck to reflect the districts that will exist once Chapter 152 is amended.

Chapter 151 Subdivisions:

Section	Title	Summary of Changes
151.001	Purpose	Technical changes for consistency 151.001(A) Insert "This chapter may hereafter be known and cited as the "Brooklyn Park Subdivision Code".
151.004	Pre-Application Procedural Requirements	Technical changes 151.004(A) Spelling of "planning"
151.011	Structures Abutting Public Streets	Technical changes for consistency 151.011(A) strike "abut upon" replace with "have access to"

		151.011(B)(1) strike “and approved” replace with “, as approved by City Engineer”
151.026	Supplementary Information Required	Technical changes for consistency 151.026(H) strike “designated” replace to read as “All plats within the Mississippi River Corridor Critical Area Overlay district as adopted in the Brooklyn Park Zoning Map, and” 151.026(H)(2) strike “Planner” replace with “Manager” 151.026(H)(3) strike “and City Planner”
151.040	Final Plat Requirements	Technical changes for consistency 151.040 strike “1” replace with “2”
151.060	Lots	Technical changes for consistency 151.060(F) strike “Planner” replace with “Manager”

Chapter 152 Zoning:

Section	Title	Summary of Changes
152.101	Severability	Added severability clause
152.104	Application	Revised tone – affirmative statement
152.105	Interpretation	Text removed, consistent with City Policy
152.107	Definitions	Definitions updated for consistency with MN Statute, industry standards, and organization. Added definition for Nightclubs.
152.205	Nonconformities	Updated standards consistent with MN Statute.
152.301	Public Hearings	Text removed, consistent with City Policy
152.302	General Procedures	Text removed, redundancy
152.303	Concept Plan	Added process adopted with 610 Moratorium
152.303	Site Plan	Revised tone – affirmative statement
152.305	Conditional Use Permit	Requires filing of CUPs
152.308	Alternative Compliance	Added language
152.311	Relocating Structures	Removed discriminatory statement
152.401	Zoning Districts	Updated Zoning District names for consistency
152.500-152.505	Residential Districts	Updated to reflect simplification of residential zoning districts in line with 2040 Comp Plan
152.506	Residential District Lot Area and Dimensional Requirements	Removed statement of ownership, amended lot size requirements, made changes for clarity of intent, added height table for clarity
152.507	Residential District Land Uses	Updated use tables for principal and accessory/temporary uses.
152.600	B-1 Office Park District	Updated district name
152.605	I General Industrial District	Reworded for clarity
152.606	PI Public Institution District	Technical changes
152.607	OP Open Spaces and Parks District	Changed name, and updated for consistency with 2040 Comp Plan
152.608	Nonresidential Lot Area and Dimensional Requirements	Technical changes for consistency
152.609	Nonresidential District Land Uses	Updated use tables for principal and accessory/temporary uses.
Section 4	Mixed Use Districts	Updates consistent with the 610 Moratorium Zoning Text Amendment, and recently approved Comprehensive Plan Amendment

152.800	Crystal Airport Overlay	Amended as recommended at the February Planning Commission Regular Session
152.802	Highway Overlay	Removed
152.803	MRCCA	Amended as recommended at the February Planning Commission Regular Session
152.901	Accessory Residential Performance Standards	Overly restrictive. Technical changes for consistency.
152.903	Nonresidential Performance Standards (Principal Uses)	Removing restrictions on beehives. Technical changes for consistency. Removing landscape restrictions imposed only on places of worship.
152.904	Accessory Nonresidential Performance Standards	Technical changes for consistency.

Chapter 153 Stormwater Management:

Section	Title	Changes
153.05	Incorporation by Reference	153.05(A)(1) Updated MPCA regulations incorporation. 153.05(A)(2) Updated plan name from “Surface Water Management Plan” to “Local Water Management Plan”. 153.05(A)(3) Added incorporation of the watershed regulations.
153.06	Definitions	Added the following definitions, consistent with MPCA standards: Fully reconstructed impervious Full depth reclamation Linear project
153.07	Stormwater Management Plan	153.07(A)(5)(c) Updated to reflect change made in 153.05(A)(2) 153.07(C)(2) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1) 153.07(C)(5)(a) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1) 153.07(C)(5)(b)(1)(b) and (c) updated regulations to meet MPCA standards. 153.07(D) updated regulations to meet MPCA standards.
153.08	Erosion Control Plan	153.08(A)(2)(k) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1) 153.08(B)(2) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1) 153.08(B)(2)(a) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1) 153.08(B)(2)(e)(3) updated regulations to meet MPCA standards. 153.08(B)(2)(i) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1)

153.08(D) Updated to reflect correct permit name of “NPDES Construction Stormwater General Permit” consistent with the update in 153.05(A)(1)

Zoning Map Update:

Consistent with the goal of the overall update of the Zoning Code, the Zoning Map was updated for consistency with the 2040 Comprehensive Plan.

Primary Issues/Alternatives to Consider:

1. Approve the amendments as presented.
2. Approve the amendments with modifications.
3. Decline to approve the amendments.

Budgetary/Fiscal Issues: N/A

Attachments:

City Staff request Councilmembers refer to Attachments 6.1A, 6.1B, 6.1C, and 6.1D that were included in Agenda Item 6.1, Zoning Code Text Amendments (Chapters 150, 151, 152, and 153); First Reading from the June 24, 2024 City Council Meeting.

- 6.1A CITY ATTORNEY REDLINES TO ORDINANCE AMENDING TITLE XV: LAND USAGE
- 6.1B SUMMARY OF ORDINANCE
- 6.1C MRCCA ORDINANCE AS PRESENTED TO PLANNING COMMISSION
- 6.1D DNR CORRESPONDENCE

ORDINANCE 2024-____

AN ORDINANCE AMENDING TITLE XV: LAND USAGE OF THE BROOKLYN PARK CITY CODE
FOR CONSISTENCY WITH THE BROOKLYN PARK 2040 COMPREHENSIVE PLAN

~~Text with strikeout is proposed for deletion~~
Underlined text is proposed for insertion

Section 1. Chapter 150: Signs of the Brooklyn Park City Code is amended to read as follows:

Chapter 150: Signs

CHAPTER 150: SIGNS 1

Article 1. Administration 2

§ 150.01 SHORT TITLE. 2

§ 150.02 PURPOSE AND INTENT. 2

§ 150.03 DEFINITIONS. 3

§ 150.04 GENERAL PROVISIONS APPLICABLE TO ALL ZONING DISTRICTS. 6

§ 150.05 PROHIBITED SIGNS. 8

§ 150.06 TEMPORARY SIGNS. 8

§ 150.07 NON-CONFORMING SIGNS. 10

§ 150.08 VARIANCES. 11

§ 150.09 SIGN APPLICATION. 12

§ 150.10 BOND AND LICENSE. 12

§ 150.11 CONSTRUCTION STANDARDS. 12

§ 150.12 PERMIT AND FEE EXEMPTIONS. 12

§ 150.13 ENFORCEMENT. 13

§ 150.14 VIOLATIONS. 13

§ 150.15 RIGHT OF APPEAL. 13

Article 2. DISTRICT REGULATIONS 13

§ 150.25 SINGLE- AND TWO- FAMILY RESIDENTIAL DISTRICTS. 13

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Article 1. Administration

§ 150.01 SHORT TITLE.

This chapter may hereafter be known and cited as the “~~Sign Ordinance.~~” “Brooklyn Park Sign Code”.

§ 150.02 PURPOSE AND INTENT.

- (A) This chapter is established to protect and promote the health, safety, general welfare and order within the City of Brooklyn Park through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection,

maintenance, use and/or display of devices, signs or symbols serving as a visual communicative media to persons situated within or upon public ~~right-of-ways~~ rights-of-way or properties.

(B) The provisions of this chapter are intended to establish an opportunity for effective communication, and a sense of concern for visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this chapter; while at the same time, assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative media.

(C) The City's Sign Code is not intended to and does not restrict speech on the basis of its content, viewpoint, or message. Any provision in this Code that permits speech by reason of the type of sign, identity of the sign user or otherwise, shall permit any type of speech or message on the sign. No part of this Code shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this Code is ambiguous, the term shall be interpreted to not regulate on the basis of speech content and the interpretation resulting in the least restriction on the content of the sign message shall prevail.

§ 150.03 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. The singular number includes the plural and the plural includes the singular. The present tense includes the past and future tenses and the future the present. The word "must" is mandatory and the word "may" is permissive. The masculine gender includes the feminine and neuter genders. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning is construed as set forth in such definition thereof. All measured distances must be expressed in feet and inches.

~~ADVERTISEMENT. Displayed information that calls public attention to a business, product, service, political or non-profit organization, idea, or event.~~

ADMINISTRATOR. The officer charged by the City Manager with the administration and enforcement of this chapter.

AGRIGULTURAL PROPERTY. Includes property used to cultivate soil, produce crops, raise animals, harvest timber, harvest fish and other animals from a farm, ranch, or natural habitat.

ALTERATION. This refers to any alteration to a sign excluding routine maintenance, painting, or change of copy of an existing sign.

~~AREA IDENTIFICATION SIGN. A sign which identifies a development such as a shopping center consisting of three or more separate business concerns, a singular free-standing commercial or institutional building 50,000 square feet or larger, an industrial building in excess of 100,000 square feet, an industrial area, an office or institutional complex consisting of three or more buildings or any combination of the above. An area identification sign must not contain advertisement, except on a reader board. A sign containing primarily the name of the individual or establishment occupying the premises, and which may also include the street address, telephone number or other information identifying the use~~

AWNING. A temporary roof like structure or cover which projects from the wall of a building or projects over any entrance and can be retracted, folded or collapsed against the face of a supporting building.

~~BANNER. Refers to temporary sign made from non-rigid material, which is secured or mounted to a structure by its ends or corners, such as used to announce open houses, grand openings or special announcements or sales.~~

BENCH SIGN. A sign which is affixed to or painted on a bench, such as at a public transit terminal or stop.

~~BILLBOARD SIGN. A sign which is erected and used for the purpose of selling or leasing advertising space or for the purpose of selling goods and/or services other than those offered on the premises. An off-premises, double faced sign erected primarily alongside highways, which is constructed in a monopole or bi-pole fashion.~~

BUILDING. Any structure having a roof which may provide shelter or enclosure for persons, animals or chattel, and when the structure is divided by party walls without openings, each portion of such building so separated is deemed a separate building.

BUILDING FACADE. That area of any exterior elevation of a building extending from grade to the top of the exterior wall and the entire width of the building elevation, including parapets, awnings, canopies, mansards or other appendages or architectural treatments to the wall. The facade does not include flat roof sections of multi-level buildings nor the shingled faces of hip roofs or gable roofs.

CANOPY/WALKWAY. A permanent roof-like structure or cover which projects from the wall of a building, or projects over any entrance or walkway.

CANOPY/VEHICULAR SERVICE. A permanent roof-like structure, either attached or detached from a permitted building, designed to provide cover for off-street vehicle service areas, (such as gasoline station pump islands,

drive-in establishments, truck loading berths, and the like).

CITY CODE. The 1972 Ordinance Code of the City of Brooklyn Park, as amended from time to time. Also referred to as the Code of Ordinances. This sign ordinance is a part of the City Code.

~~CONSTRUCTION SITE SIGN. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, developer, financier or other involved parties. A temporary free-standing sign erected on premises on which development is taking place during the period of such development.~~

~~DIRECTIONAL SIGNS. A sign which bears only directional arrows or information on location plus the address and/or name of a business, institution, or other use activity, provided the primary message and purpose is to provide directional information. A sign indicating entrances and exits, including those for parking lots, garages, and structures.~~

~~DISTRICT. Refers to a specific zoning district as defined in the Brooklyn Park Zoning Ordinance, Chapter 152.~~

DWELLING. A building of one or more portions thereof occupied or intended to be occupied for residential purposes; but not including rooms in motels, hotels, nursing homes ~~homes~~, boarding houses, trailers, tents, cabins or trailer coaches.

DWELLING UNIT. A single-family dwelling.

~~EVENT. For the purposes of this chapter, an event is defined as an organized function, which occurs on two consecutive weekends or over a period of no more than ten consecutive days, that serves to advertise and/or promote a non-profit agency or organization as defined by the State of Minnesota. Section 150.06(A)(1) regulates those events that use banners or mobile reader boards.~~

FEATHER FLAG. A free-standing, temporary sign constructed of a singular vertical pole, tube, or post supporting one edge of a single sheet of weather resistant cloth, vinyl, or similar material ~~printed with advertising, graphics, or other messages on each opposing side~~, incorporating movement only as provided by surrounding winds or other unassisted ambient air movement.

FLASHING SIGN. A sign which contains rotating, flashing, or intermittent lights, animation, or exhibits noticeable changes in color, intensity, texture, shape, pattern or light intensity.

FREE-STANDING SIGN. Any stationary, self-supporting sign not affixed to any other structure and supported by a pole(s). A reader board or electronic message center may be attached to the free-standing sign structure, but the reader board must not exceed 30% of the area containing the sign copy. The reader board must be included in calculating the allowable sign square foot area as required in the individual district.

GOVERNMENTAL SIGN. A sign which, is erected by a governmental unit ~~for the purpose of identification, direction, and/or guiding traffic.~~

GRADE. The main elevation of curb along public street frontage closest to the sign to which reference is made, or center line of street-if no curb is available.

~~HOME OCCUPATION SIGN. A sign directing attention to a home occupation as defined in the city's zoning ordinance, Chapter 152.~~

IDENTIFICATION SIGN (NAME PLATE). Any sign which identifies the address or the structure on which they are located, in compliance with the Minnesota Building Code. ~~states the name and/or address of the business or occupant of the lot or building where the sign is placed or may be a directory listing the names, addresses and/or businesses of occupants. IDENTIFICATION SIGNS must contain no advertisement.~~

ILLUMINATED SIGN. Any sign which is designed to be and/or is lighted by an artificial light source either directed upon it or illuminated from an interior source. All illuminated signs must have light sources shielded to confine direct illumination to the face area of the sign.

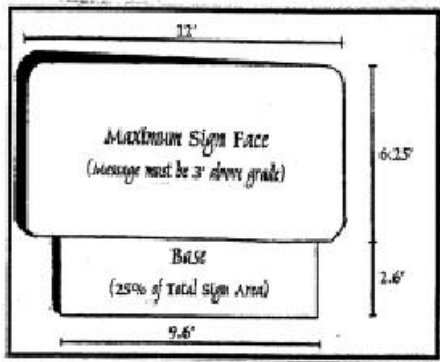
INSTITUTION. Includes churches, schools, sanitariums, hospitals, government buildings, nursing homes.

~~INSTITUTIONAL SIGN. A sign and/or reader board which identifies the name and other characteristics of an institutional use located on institutional property within any zoning district and allowed by zoning code. Institutional signs must not contain advertisement (examples: churches, schools, sanitariums, hospitals, government buildings, nursing homes).~~

INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the building walls.

MONUMENT SIGN. A sign which is attached to or supported by a monument structure which bears entirely on the ground, extending horizontally for a minimum of 80% of the entire length of the sign face. The sign base must be constructed of any one or combination of the following materials: brick, stone, decorative masonry, plastic, aluminum, colored metals, or decay resistive wood. The base and supporting material must constitute at least 25% of the total allowable sign square footage. A reader board or electronic message center may be

attached to the monument sign but must not exceed 30% of the area. The sign copy, reader board or message must have a minimum clearance of three feet above grade. The area containing sign copy, including reader board, and the area of the monument structure itself must be combined for determining the total square footage and height. A sign attached to a retaining wall is considered to be a monument sign provided the message or copy does not exceed the allowable sign area as specified for the applicable zoning district, and all other provisions for a monument sign are met.



An example of a 100 square foot monument sign.

MOTION SIGN. Any sign which revolves, rotates, has any moving parts or gives the illusion of motion, electronically or otherwise.

MURAL. A hand-painted, hand-tiled, or digitally printed work of visual art that is either affixed to or painted directly on the exterior wall of a structure with the permission of the property owner. A mural does not include displays with electrical or mechanical components or changing image art display.

NON-CONFORMING SIGN. A sign which was lawfully constructed prior to the time of the passage of this chapter or amendment thereto, but which does not conform with the regulations of this chapter.

NON-PROFIT ORGANIZATION. An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, a congressionally chartered veterans' organization, or religious institution. For the purposes of this chapter, this definition includes the governments of the City of Brooklyn Park, Hennepin County, State of Minnesota, United States of America, and any school district within the city limits.

OFF-SITE DIRECTIONAL SIGN. A sign that is located on the same pole and beneath an existing street name sign for the purpose of providing directional information for a public or institutional use that is located on a local street. The City Engineer may determine whether a sign or signs are warranted to direct traffic in this manner on a case-by-case basis. No more than one off-site directional sign may be located on a single pole, the sign must have same color, size and font as the accompanying street name sign and must contain only the name of the use and a directional arrow and must be constructed and maintained by the city at the expense of the benefitting property.

PEDESTRIAN SIGN. A temporary sign, which is constructed of durable materials and is designed to be readily moved from one location to another (ex. sandwich board sign or any item containing a message). For purposes of this chapter, any sign mounted to, or conveyed by means of, a vehicle shall not be considered a pedestrian sign.

PENNANT. Attention getting devices (such as streamers) constructed of paper, cloth, plastic or similar materials, (excluding banners and flags).

PERMANENT SIGN. Any sign which is not a temporary sign.

PORTABLE SIGN. A temporary sign and/or reader board so designed as to be movable from one location to another and which is not permanently attached to the ground, or any permanent structure.

PRODUCT IDENTIFICATION SIGNS. A sign that is not necessary to identify a business and identifies a product or service either sold on or off the premises on which the sign is located.

PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and which has sign faces extending perpendicular from the building wall.

READER BOARD (ELECTRONIC MESSAGE CENTER). That portion of the sign used for removable or electronically changeable graphics, letters, and/or numbers to convey messages.

~~**REAL ESTATE SIGN.** A business sign placed upon a property advertising that particular property for sale, rent or lease.~~

- ~~RESIDENTIAL DEVELOPMENT SIGN. A sign that identifies the name of a neighborhood, a residential subdivision, or a multiple residential complex.~~
- ROOF SIGN. Any sign which is erected, constructed or attached wholly or in part upon or above the roof of a building.
- ~~RUMMAGE OR GARAGE SALE. The infrequent, temporary display and sale of used personal property by a tenant or owner on the tenant's or owner's residential premises.~~
- SEARCHLIGHT. An apparatus containing a source of light and a reflector that projects the light produced in a concentrated, far-reaching beam for the purpose of advertisement.
- SETBACK. The minimum horizontal distance from the closest part of a sign to the property line, or public street easement or right-of-way.
- SIGN. Any structure, device, advertisement, or visual representation intended to advertise, identify, or communicate information, or attract the attention of the public for any purpose; and without prejudice to the generality of the foregoing includes: any symbols, letters, figures, illustrations, or wall graphics painted or otherwise affixed to a building or structure.
- SIGN AREA. That area measured within the perimeter lines of the sign which bears the advertisement; or in the case of messages, figures, or symbols, including those attached directly to any part of a building. That area which is included in the smallest rectangle which can be made to circumscribe the message, figure, or symbol displayed for the purpose of advertisement. The specified maximum sign area for a free-standing or monument sign refers to a single facing and not to the aggregate area of both faces. The sign area for a monument sign includes the sign structure.
- SIGN, MAXIMUM HEIGHT OF. The vertical distance measured from grade or other reference elevation as herein specified to the upper limit of such a sign.
- SIGN, MINIMUM HEIGHT OF. The vertical distance measured from grade or other reference elevation as herein specified to the lower limit of such sign.
- SIGN STRUCTURE. The base, supports, uprights, bracing and framework for a sign including the sign area.
- STREET. Refers to a public highway, road, or thoroughfare which affords the principal means of access to adjacent lots.
- STREET FRONTAGE. The linear length in feet of the property line adjacent to public street(s). An interior lot has one street frontage and a corner lot has two street frontages.
- TEMPORARY SIGN. Any sign which is erected or displayed with or without a permit for a specified period of time (such as banners, portable signs, searchlights, window signs, and the like).
- UNLAWFUL SIGN. A sign which exists prior to or after the passage of this chapter or amendments thereto, which does not conform with the regulations of this chapter and is not an existing legal, or is not a legal nonconforming sign, or is not a sign erected with a sign permit, is an unlawful sign.
- WALL. The building facade area that defines the front of the building. The front is the continuous line of a building that connects side wall to side wall and faces one public right-of-way. For a multi-tenant building on a corner lot, the front is the continuous line of a building which faces either a public right-of-way or a private road in a planned unit development.
- WALL SIGN. A sign with permanent lettering which is affixed to the exterior wall of a building and has a sign face which is parallel to the building wall. A wall sign must not project more than 12 inches from the surface to which it is attached, nor may it extend beyond the top of the building wall.
- WALL GRAPHICS. A graphic design or decorative mural not intended for identification or advertising purposes, which is painted directly on or affixed to an exterior wall surface.
- WINDOW SIGN. A temporary sign affixed to the interior of a window in view of the general public. This does not include merchandise that is for sale and on display.
- ZONING DISTRICT. Refers to a specific zoning district as defined in the Brooklyn Park Zoning Code, Chapter 152.

§ 150.04 GENERAL PROVISIONS APPLICABLE TO ALL ZONING DISTRICTS.

- (A) Nothing in this chapter will be interpreted as authorizing the erection or construction of any sign not permissible under the ~~zoning or building ordinances~~ Zoning Code of the city, or Minnesota Building Code.
- (B) All electrical signs, temporary or permanent, are subject to the State Electrical Code and approval of the Electrical Inspector.
- (C) No sign other than bench signs at public transit stops and governmental traffic safety or roadway information signs and off-site directional signs as defined in § 150.03 may be permanently or temporarily erected within any street right-of-way or upon any public easement.

- (D) Directional signs are permitted in all districts provided the directional signs are located on the property referred to by the sign or within a planned unit development. The area of such signs must not exceed ten square feet per sign face for a single tenant building or 20 square feet per sign face for a multiple tenant building or a multi-building complex. Such signs must not have more than two sign faces. Maximum sign height for free-standing or monument-type directional signs is six feet above grade.
- ~~(E) It is unlawful to park any vehicle or trailer on a public right of way or public property or on private property so as to be visible from a public right of way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of directing people to a business or activity located on the same or nearby property or any other premises.~~
- (E) Businesses that utilize permanent, legal outdoor sales, (such as lumber yards, nurseries, and the like are allowed generic product identification signs for customer convenience, and to assist in traffic movement. These signs must not exceed 36 square feet in area, nor exceed eight feet in height, and may be illuminated. These signs are allowed for orientation information purposes only and must not be visible from public streets. These product identification signs must be setback 100 feet or more from all public streets.
- (F) If a free-standing sign or monument sign is constructed so that the faces are not constructed so as to be back to back, the total area of all sides added together must not exceed the maximum allowable sign area for the district.
- (G) Architectural building extensions such as awnings or canopies, other than vehicular service canopies, primarily built as shelter for entrances or for aesthetic purposes, are allowed to display signage. These signs are considered as wall signs for the purpose of determination of the maximum allowable sign area.
- (H) Vehicular service canopy signs are ~~limited to a business logo and/or graphic design~~ not to exceed ten percent of each canopy face area or ten square feet on each canopy face, whichever is smaller. Service station canopy signs are restricted to two faces of the canopy and must not be located above or below the canopy area.
- (I) Service stations may advertise gasoline prices on reader boards attached to a permitted free-standing sign or attached to canopy supports. If attached to the canopy supports, these signs must be no larger than 15 square feet in area. In no case may a free-standing sign be constructed for the sole purpose of advertising prices. Service stations may have gas pump topper signs ~~advertising products for sale on the premises~~, not to exceed two square feet per gas pump.
- (J) No sign except bench signs and billboards, may in its entirety, separately advertise a product, commodity, service, or contain other miscellaneous language that is not directly related to the business name, except as allowed by § 150.06(B)(5)(h).
- (K) A product identification sign may be integrated into a permitted free-standing, monument or wall business sign and will be included as part of the maximum allowable sign area. Product identification sign area must not exceed ten percent of the maximum allowable sign area.
- (L) Buildings, premises or lots are not allowed to have pennants, pinwheels, or other attention attracting devices, or temporary signs except in, accordance with § 150.06 of this chapter.
- (M) One flagpole may be erected for each 100 feet of street frontage, not to exceed a total of three flagpoles. Height of the poles must not exceed the building height regulations, as specified by the ~~zoning ordinance~~ Zoning Code for the district where the poles are located, and flag length must not exceed 25% of the pole height, and no more than two flags per pole are permitted.
- (N) It is unlawful for a sign permitted by this chapter, by reason of its location, color intensity, to create hazard to the safe, efficient movement of vehicular or pedestrian traffic. A private sign must not contain alarming words which might be construed as traffic controls, such as "stop," "caution," "warning," and the like, unless such sign is intended to direct traffic on the premises.
- (O) A sign must not contain any indecent or offensive picture or written matter.
- (P) State and federal government agencies and their political subdivisions are exempt from the provisions of the sign ordinance except for setback requirements.
- (Q) All sign permits for multiple tenant buildings require the signature of the property owner or the property owner's agent.
- ~~(R) Projecting signs are permitted in all districts provided the projecting signs are located on the property referred to by the sign or within a planned unit development. The area of such signs must not exceed ten square feet per sign face for a single tenant building or 20 square feet per sign face for a multiple tenant building or a multi-building complex. Such signs must not have more than two sign faces. Minimum sign height for projecting signs is eight feet above grade. The area of the projecting sign faces are to be included in the total area of signs placed on a single façade when the total area of signage on that façade is limited in area.~~

§ 150.05 PROHIBITED SIGNS.

The following signs are specifically prohibited in all districts:

- (A) Motion signs - exempted are temporary search lights and permanent electronic message center signs which only display time and/or temperature information or have a message that does not change more frequently than once every sixty seconds.
- (B) Flashing signs except electronic motion signs as exempted above.
- (C) Roof signs - signs installed above the building facade.
- ~~(D) Projecting signs.~~
- (D) Signs which have more than two sign faces.
- (E) Signs which are attached to trees, fences, utility poles or other such permanent supports, not specifically intended as sign structures.
- (F) Signs painted directly on building walls. Exempted are murals ~~non-commercial non-lettered wall graphics~~ in accordance with § 150.03 of this chapter.
- (G) Wall signs are not permitted on any building wall facing an abutting residential property or properties, unless separated by a city street or highway right-of-way.
- (H) Signs affixed to the exterior side of windows, except addresses and other minor directional information.
- (I) Billboards in the T.H. 610 Corridor as delineated in the T.H. 610 Corridor Plan.
- (J) Portable reader board signs unless specifically allowed in other sections of this code.

§ 150.06 TEMPORARY SIGNS.

(A) Multi-family apartment, commercial, industrial, organization, and institutional users in all zoning districts. The following sections concern temporary signs in all zoning districts. The signs are regulated according to the requirements set forth below:

(1) Temporary banner ~~advertisement signs. Temporary advertisement signs~~ in the form of durable, weather resistant banners, may be erected with a sign permit, provided:

- (a) A temporary sign permit is necessary for all signs identified in this section.
- (b) Minimum setbacks: All temporary ~~advertisement signs~~ in the form of banners and feather flags must be set back at least 10 feet from all property lines and may in no case be permitted within the 30 foot clear-view triangle at public or private streets or driveway intersections.
- (c) The total area of all temporary signs in the form of banners must not exceed 200 square feet.
- (d) Banners are allowed to be displayed on existing fences, accessory buildings, and principle building facades providing they meet the setback requirements.
- (e) In a multi-tenant structure the banner must not exceed the width of the front of the space to be occupied or 200 square feet, whichever is less.
- (f) Businesses possessing a valid and current temporary sign permit may display for that allotted time period (in addition to the permitted banner), up to three feather flags for advertising purposes. Feather flags must be less than or equal to 15 feet in height, displayed on the property where the permit holding business is located, may not impede vehicle or pedestrian traffic, and are not allowed to be displayed in a public right-of-way or other prohibited areas.

(2) Permit required. Each business concern or organization is allowed a maximum of three permits in a calendar year, except temporary non-profit organization events which are allowed an unlimited number of permits. Each permit for a banner will be for 30 consecutive days. Permit fee is set by the City Council. No temporary sign permit will be issued to any business, institution, or organization found guilty of violating the provisions of the temporary sign code more than once in a calendar year for the period of one year from the second occurrence.

(a) Exceptions :

- (i) Grand opening banner. A business must receive a one-time permit at no cost to place a "grand opening" banner for 60 consecutive days from the opening date. The banner must follow size and setbacks described in the section above. This permit will not count towards the three allotted annual permits.

- (ii) Window signs. Window sign area must not exceed 25% of the total area of the window(s) located on the wall face in which it is displayed. No permit is required for signs located on the inside of windows or for interior store displays.

~~(4) Flashing or rotating signs prohibited. Flashing or rotating signs or lights are not permitted on temporary~~

signs. However, search lights may be used on site for four days for the calendar year.

(iii) ~~Itinerant produce sales signs. Vendors who have received permits to operate at the Brooklyn Park Farmers' Market, are allowed one sign without a permit. That sign must be no larger than 16 square feet in size and be located no more than five feet of the merchant's stand, table, vehicle, or the like, and~~ No permit is required for signs associated with a farmer's market that has been approved in accordance with the Zoning Code. Signs can only be displayed the day and time of the sale. This sign limitation does not include small price signs, less than one-half square foot in size, located on or near the produce. The signs must be removed from the site at the end of each sale day.

(iv) Pedestrian signs. Each business is allowed one pedestrian sign not to exceed 10 square feet on each of two sides displayed outside only during regular business hours. Pedestrian signs must be located within 20 feet of a customer entrance to the building in which the business is located, but must not block pedestrian walkways. Pedestrian signs must be located on the same parcel as the business and must not be located within the public right-of-way.

(3) Flashing or rotating signs prohibited. Flashing or rotating signs or lights are not permitted on temporary signs. However, search lights may be used on site for four days for the calendar year.

(B) All zoning districts. The following sections concern temporary campaign signs, temporary construction signs, temporary real estate signs, temporary non-profit organization event signs, and temporary residential garage and/or rummage sale signs in all zoning districts, and the signs are regulated according to the requirements set forth below:

(1) Temporary campaign signs. Temporary campaign signs posted by a candidate for public office or by a person or group promoting a political issue or a political candidate may be erected subject to the following:

(a) Signs must not exceed sizes authorized by state statute for state general elections.

(b) Pursuant to M.S. § 211B.045, campaign signs may be posted 46 days before the state primary in a state general election year until ten days following the state general election.

(c) Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way, on public property or in the public street intersection 30 foot clear-view triangle.

(d) Maximum height of signs: No temporary campaign sign may exceed 12 feet above grade.

(2) Temporary construction sign. One temporary identification sign may be installed upon a construction site ~~denoting the names of involved parties~~ provided:

(a) Sign area must not exceed 100 square feet.

(b) Sign must be removed within two years after issuance of first building permit or upon issuance of a certificate of occupancy, whichever is sooner.

(c) Minimum setbacks: These signs must comply with setback requirements of subdivision (B)(1)(c) of this section. Signs must be erected only on the property where work is being done.

(d) Maximum height of signs: No temporary construction sign may exceed 12 feet above grade.

(3) Temporary real estate signs.

(a) Free-standing sign. A temporary free-standing sign ~~for the purpose of selling or leasing individual lots, parcels, homes or buildings~~ may be erected provided:

1. Sign area must not exceed six square feet for residential property and 20 square feet for non-residential property.

2. Sign must be removed within seven days following the closing of a sale or lease of the property.

3. Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way nor in the public street intersection 30 foot clear-view triangle. Sign must be erected only on the property being sold or leased.

4. Maximum height of signs: No temporary freestanding real estate sign may exceed eight feet above grade.

5. Banners, streamers, pennants, balloons, directional signs, and the like, may be erected for two 21-day periods per year to coincide with the spring "Preview of Homes" and the fall "Parade of Homes."

6. Temporary open house and/or directional signs: Temporary open house and/or directional signs may be placed in public view no earlier than 9:00 a.m. on the actual day of the open house and must be removed no later than 9:00 p.m. on the same day. Only one sign per intersection is allowed for each open house. Placement of open house directional signs should not block pedestrian or bicycle pathways or sidewalks. Signs must not be placed within the 30 foot clear view triangle at public street intersections. Open house directional signs may not be attached to federal, state, county or city sign posts. The signs may not be placed on center medians or street islands or within four feet of the roadway surface.

(b) Area identification sign on residential or non-residential project sites. A temporary area identification sign

~~for the sale or lease of residential projects of two or more dwelling units or lots, and for non-residential projects,~~
may be erected provided:

1. Sign area must not exceed 100 square feet.
2. Such sign must be removed when the project is 80% sold or leased.
3. Minimum setbacks: All temporary ~~real estate~~ area identification signs must be set back at least 25 feet from all property lines. Sign must be erected only on the impacted property being sold or leased.
4. Maximum height of sign: No temporary real estate area identification sign may exceed eight feet above grade.
- (4) Temporary ~~commercial residential garage and/or rummage sale~~ signs on residential property.
 - (a) Sign area must not exceed four square feet.
 - (b) Signs must be erected for no longer than four days and must be removed by the owner immediately following this time. Signs which remain in place for more than four days are deemed litter. The beginning and end date of sale, and address of the sale must be prominently displayed on every sign erected.
 - (c) Minimum setbacks: There is no setback requirement; however, these signs must not be erected in the public right-of-way, on public property, or in the public street intersection 30 foot clear-view triangle. Signs may be erected on private properties other than the property where the sale is conducted with the permission of the property owner.
 - (d) Maximum height of signs: No temporary ~~residential garage and/or rummage sale sign~~ commercial sign on residential property may exceed six feet above grade.
- (5) Temporary non-profit organization ~~event~~ signs.
 - (a) Signs must not exceed eight square feet per sign face.
 - (b) An unlimited number of signs are allowed per event, but must be located as follows:
 1. No more than one sign per event may be located on a single parcel, and
 2. No more than four signs per event may be located in a single street intersection.
 - (c) A map or list of addresses designating the specific sites of each sign must be kept by the applicant.
 - (d) Signs must not be posted in excess of 15 days prior to the event and must be removed no later than two days following the final date of the event. The promoting organization, location and date(s) of the event must be prominently placed on each sign.
 - (e) Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way, on public property, or in the public street intersection 30 foot clear-view triangle.
 - (f) Maximum height of signs: A temporary non-profit organizational event sign must not exceed six feet in height above grade.
 - (g) A portable reader board must not be used off the premises from which the event is being held nor may this type of advertising promotion precede or exceed the actual dates of the event. A portable reader board must not be used on public property. An on-site reader board must not exceed 32 square feet. These signs must be set back 15 feet from all property lines but not within the 30 foot clear-view triangle of entrances or public street intersections.
 - (h) A non-profit organization may display messages ~~directly related to their organization~~ on the reader board of any lawful sign with the permission of the sign owner.
- (6) Temporary roadside ~~agricultural products advertisement~~ sign on agricultural property. Temporary ~~advertisement roadside~~ signs may be erected with a sign permit, provided:
 - (a) Signs ~~are advertise agricultural products grown on the property~~ in compliance with this chapter of the City Code.
 - (b) Maximum size: Signs may not exceed 16 square feet in area per sign face. No more than three signs are allowed, per property, and only two of which may be permitted off the site ~~where the agricultural products is grown of the agricultural property~~. For all off-site signs, written permission from the property owner of the proposed sign location shall be submitted with the sign application.
 - (c) Signs are allowed to be posted for a period of time not to exceed three months. The specific time period requested must be specified in the permit application.
 - (d) Minimum setbacks: There is no setback requirement; however, these signs may not be erected on the public right-of-way, on public property, or in the clear view triangle as defined in this chapter of the City Code.
 - (e) Maximum height of signs: No temporary roadside agricultural products advertisement sign may exceed eight feet in height above grade.

§ 150.07 NON-CONFORMING SIGNS.

- (A) Any lawfully constructed non-conforming or any legal sign existing upon the effective date of this chapter

may be maintained and continued at the size and in the manner of operation existing upon such date except as hereinafter specified.

- (B) Upon adoption of this chapter, a non-conforming sign must not be:
 - (1) Changed to another non-conforming sign.
 - (2) Structurally altered or moved except to bring such nonconforming sign into conformance with this chapter.
 - (3) Expanded or enlarged.
 - (4) Repaired or otherwise rehabilitated after damage or deterioration of more than 50%, except to bring into conformance with this chapter.
- (C) Notwithstanding the foregoing divisions of this section, all signs which are made non-conforming by this sign ordinance, must be brought into conformance, on a sign-by-sign basis, at the time that a sign face or copy is changed or altered except for routine maintenance as required by this chapter. Billboard signs must be brought into conformance at the time that the main structure is removed and must follow the provisions of § 150.29(F).
- (D) Temporary signs as provided in § 150.06 are not entitled to non-conforming status. Such signs must be brought into compliance with § 150.06 as directed by the sign enforcement office, or it may be summarily removed from display by the enforcement officer.

§ 150.08 VARIANCES.

- (A) Purpose. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.
- (B) Review Standards.
 - (1) Variances shall only be permitted:
 - (a) When they are in harmony with the general purposes and intent of the ordinance.
 - (b) When the variances are consistent with the Comprehensive Plan.
 - (2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that:
 - (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 - (b) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - (c) The variance, if granted, will not alter the essential character of the locality.
 - (d) Economic considerations alone do not constitute practical difficulties.
- (C) Conditions. The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No building permit may be issued except in compliance with the conditions of the variance.
- ~~(A) Any request for a variance to the sign ordinance must follow the same procedure as outlined in the zoning code.~~
- ~~(B) (1) In considering all variance requests and in taking subsequent action, the Planning Commission and the City Council must make a finding showing that all of the following conditions exist:
 - ~~(a) There are special conditions or circumstances affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the applicant's land.~~
 - ~~(b) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.~~
 - ~~(c) The granting of the variance will not be detrimental to the public welfare or injurious to the other property in the area in which the property is situated and will not have an adverse effect upon traffic or traffic safety.~~~~
- ~~(2) In making an application for a variance, the petitioner must state in writing why the petitioner believes the above conditions exist. Upon granting a variance, the Council may attach those conditions it deems desirable or necessary to protect the public interest.~~

§ 150.09 SIGN APPLICATION.

- (A) Permits required. Except as specifically provided by this chapter, it is unlawful for any person to erect, alter, or relocate within the city any sign, without first obtaining a permit(s) from the Sign ~~Code Ordinance~~ Administrator and making payment of the fee required. Application for permits must be made upon application forms provided by the City of Brooklyn Park and must be accompanied by:
- (1) A site plan drawn to scale based on and accompanied by a certificate of survey, or on a certificate of survey, showing the relation of the sign to the nearest buildings, private and public streets, right-of-ways and property lines.
 - (2) Sign plans, specifications and methods of construction.
 - (3) A copy of structural calculations and details showing the structure is designed for live and dead loads including wind velocity in the amount required by all ordinances of the city. Electrical permits will be required by the State Board of Electricity.
- (B) Permit issued if application in order. It is the duty of the Sign ~~Code Ordinance~~ Administrator, upon the filing of the application for a permit, to examine such plans and specifications and other data, and the premises upon which the sign is proposed to be erected, and if it appears that the proposed structure is in compliance with all other laws and ordinances of Brooklyn Park, the Sign Code Administrator must then issue the permit. If the work authorized under a permit has not been completed within 90 days after the date of issuance, the permit will become null and void.
- (C) Permit fees. Every applicant, before being granted a permit hereunder, must pay to the city the permit fee for each sign regulated by this code in an amount as established by the fee resolution, set forth in the Appendix to this code.
- (D) Permit revocable at any time. All rights and privileges acquired by obtaining a permit under the provisions of this chapter or any amendment thereto are mere licenses, revocable for cause at any time by the Council, and all such permits must contain this provision.

§ 150.10 BOND AND LICENSE.

- (A) It is unlawful to engage in the business of erecting signs, and no person is entitled to a permit to erect a sign under this chapter unless licensed to do so by the City of Brooklyn Park, except as provided in division (B) of this section. Such license may be granted on written application accompanied by an annual license fee in the amount set by the Council, to the Sign ~~Code Ordinance~~ Administrator in such form as the Sign Code Administrator prescribes. The license may be terminated by the Council at any time for cause. No license will take effect until the licensee files with the city a bond with corporate surety in a form approved by the City Attorney in the penal sum of \$2,000, conditioned that the licensee will pay all permit fees required under this chapter, pay any fines imposed upon the licensee for violation thereof, will conform to all of the provisions of this chapter, and will indemnify and hold the city, its officers and agents harmless from any damage or claim resulting from or related to the erection or maintenance of any sign in the city by the licensee.
- (B) Bonding and licensing requirements are not required of a property owner(s) erecting signs on their own property. All other provisions of this chapter apply.

§ 150.11 CONSTRUCTION STANDARDS.

The design and construction standards for signs and sign structures as set forth in ~~Chapter 4 of the 1997 Edition of the Uniform Sign Code~~ the Minnesota Building Code as amended from time to time are adopted by reference, a copy of which is on file and on record with the City Clerk.

§ 150.12 PERMIT AND FEE EXEMPTIONS.

- The exemptions permitted by this section apply only to the requirement of a permit and/or fee, and are not construed as relieving the installer of the sign, or the owner of the property upon which the sign is located, from conforming with the other provisions of this chapter:
- (A) Temporary signs erected by non-profit organizations must obtain a permit but are exempted from any fee.
- (B) No permit or fee is required for the following:
- (1) Temporary signs displayed in accordance with § 150.06(A)(2), (B)(1), (B)(2), (B)(3), (B)(4) and (B)(5).
 - (2) Integral signs.
 - (3) Residential identification (name plate) signs.
 - (4) Directional signs.
 - (5) Signs which are located completely on the interior of a building and not visible from the outside of the building.

§ 150.13 ENFORCEMENT.

- (A) Unsafe, non-maintained and unlawful signs.
- (1) If the Sign ~~Code Ordinance~~ Administrator finds that any permanent sign regulated herein is unsafe or insecure, or adversely affects the health safety and general welfare of the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter; the ~~Sign Code~~ aAdministrator must give written notice by mail to the permittee thereof.
- (2) If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 14 days after the mailing notice, the sign or other advertising structure may be removed or altered at the expense of the permittee or owner of the property upon which it is located or legal action may be taken to force compliance with this chapter. The Sign ~~Code ordinance~~ Administrator must refuse to approve and the City of Brooklyn Park must refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed.
- (3) The Sign ~~Code Ordinance~~ Administrator may cause any sign or other advertising structure which is a safety hazard to persons to be removed summarily and without notice. The Sign ~~Code Ordinance~~ Administrator may cause any temporary sign erected not in conformance with the sign ordinance to be removed summarily and without notice or legal action may be taken to force compliance with this chapter.
- (B) Painting required. The owner of any sign as defined and regulated by this chapter is required to have the sign and sign structure properly painted upon order of the Sign ~~Code Ordinance~~ Administrator. It is the intent of this provision that the sign appearance does not create a blighting influence upon the neighborhood where the sign is located.
- (C) Wood supports to be decay resistive. All posts, anchors and bracing of wood must be decay resistive or approved wood preventative treated to protect them from physical or aesthetic deterioration.
- (D) Premises to be kept free of weeds, and the like. All the premises surrounding signs must be maintained by the owner thereof in a clean, sanitary and inoffensive manner and free and clear of all obnoxious substances, rubbish and weeds.

§ 150.14 VIOLATIONS.

- (A) If the Sign ~~Code Ordinance~~ Administrator finds any permanent sign in violation of the terms of this chapter, a written notice will be issued to the owner, and/or possessor (tenant in possession, operator or manager of the premises on which the sign is located), specifying the violation and allowing the time period specified in § 150.13(A) above in which to correct or remove the violation. After the expiration of the time period specified by written notice, if the violation is not corrected or discontinued, the owner and/or possessor of the property will be guilty of a misdemeanor, and each day of violation after the initial time period as specified by written notice constitutes a separate offense.
- (B) It is unlawful to display any temporary sign in violation of the terms of this chapter. The owner, and or possessor (tenant in possession, operator, or manager of the premises on which the sign is located) of the property is guilty of a misdemeanor and each day of the violation constitutes a separate offense.

§ 150.15 RIGHT OF APPEAL.

When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this chapter, or upon a misstatement or mistake of fact, the person may appeal the compliance order to a Board of Appeals and Adjustments as established in the zoning code portion of the city code. The Board as an advisory body must forward their recommendation to the City Council. Such appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee as designated by the City Council in cash or cashier's check, and must be filed with the compliance official within five business days after service of the compliance order. The filing of an appeal stays all proceedings in furtherance of the action appealed unless such a stay would cause imminent peril to life, health or property.

Article 2. DISTRICT REGULATIONS

§ 150.25 R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4 AND R-4A SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR LOW- AND MEDIUM-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.

The following provisions concern signs in the ~~R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4 and R-4A~~ Single- and Two-

~~Family Residential Districts and area guided for low- and medium-density residential in the Planned Community Development District and Planned Unit Development District, and said signs are regulated according to the requirements set forth below:~~

- (A) Identification signs (name plate). One free-standing or wall sign/name plate per dwelling unit, not greater than two square feet in area, indicating the name and/or address of the occupant. A sign must not be constructed so as to have more than two surfaces.
- (B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage. Such sign must not exceed 60 square feet in area.
- (C) Residential development signs. These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.
- (D) Home occupation signs. One non-illuminated sign with a maximum square footage of two feet for each dwelling unit wherein a permitted home occupation exists.
- (E) Minimum setbacks. A sign must not be erected in the public right-of-way. For divisions (A) and (B) of this section, signs must be set back at least 15 feet from front property lines, at least ten feet from side and rear property lines and at least 15 feet from the property lines of corner lots. For division (C) signs, no setback is required. For division (D) of this section, signs must be set back at least 20 feet from front property lines. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.
- (F) Maximum height of signs. For signs described in divisions (A) and (D) of this section, no sign may exceed six feet above grade. For signs described in divisions (B) and (C) of this section, no sign may exceed ten feet above grade.
- (G) Residential development signs. Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

~~§ 150.26 R-5, R-6 AND R-7 MULTIPLE RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR HIGH-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.~~

~~The following sections concern signs in the R-5, R-6, and R-7 Multiple Residential Districts and areas guided for high-density residential development in the Planned Community Development District and Planned Unit Development District, and said signs are regulated according to the requirements set forth below:~~

- (A) Identification signs (name plate). One wall sign/name plate per institution or multiple residential building, not to exceed six square feet in area, or one wall sign/name plate per dwelling unit where separate entrances occur, not to exceed two square feet in area.
- (B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage, not to exceed 60 square feet in area.
- (C) Residential development signs. These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.
- (D) Minimum setbacks. For division (B) of this section, monument signs must be set back at least 15 feet from front property lines and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.
- (E) Maximum height of signs. For division (B) of this section, no sign may exceed eight feet above grade. For division (C) of this section, no sign may exceed ten feet above grade.
- (F) Residential development signs. Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

§ 150.27 B-1 OFFICE PARK DISTRICT.

The following sections concern signs in the B-1 Office Park District, and said signs are regulated according to the

requirements set forth below:

- (A) In B-1 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivision (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) unless modified by a planned unit development.
 - (1) Free-standing or monument sign. One free-standing sign, not to exceed 75 square feet in area, or one monument sign not to exceed 120 square feet.
 - (2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 100 square feet in area.
 - (3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls, immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.
 - (4) Wall signs. Multiple story buildings (three or more stories).
 - (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
 - (b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.
 - (5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.
- (B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.
- (C) Minimum setbacks. Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.
- (D) Maximum height of signs. Signs described in divisions (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.
- (E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

§ 150.28 B-2 NEIGHBORHOOD RETAIL BUSINESS DISTRICT, B-3 GENERAL BUSINESS DISTRICT, AND B-4 VEHICLE SALES AND SHOWROOM DISTRICT.

The following sections concern signs in the B-2 Neighborhood Retail Business District and in the B-3 General Business District, and said signs are regulated according to the requirements set forth below:

- (A) In B-2 and B-3 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified by a planned unit development.
 - (1) Free-standing or monument sign. One free-standing sign not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet in area.
 - (2) Area identification sign. One free-standing or monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.
 - (3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.
 - (4) Wall signs. Multiple story buildings (three or more stories):
 - (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
 - (b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be

located on the first story. The measured area is that building facade of the first and second story.

- (5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.
- (B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.
- (C) Minimum setbacks. Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.
- (D) Maximum height of signs. Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.
- (E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

§ 150.29 BP BUSINESS PARK AND I GENERAL INDUSTRIAL DISTRICTS.

The following sections concern signs in the BP Business Park District and I General Industrial District, and said signs are regulated according to the requirements set forth below:

- (A) In BP and I Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a planned unit development.
 - (1) Free-standing or monument sign. One free-standing sign, not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet.
 - (2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.
 - (3) Wall signs. One and two story buildings, single or multiple tenant buildings: Signs attached to two walls, not to exceed ten percent of the building facades to which the signs are attached.
 - (4) Wall signs. Multiple story buildings (three or more stories).
 - (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
 - (b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.
 - (5) Three wall signs. Wall signs are allowed on only three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this section.
- (B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.
- (C) Minimum setbacks. For subdivisions (A)(1) and (A)(2) of this section, free-standing signs must be set back 25 feet from the front property line and ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property lines and ten feet from side and rear property lines. For division (B) of this section, signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.
- (D) Maximum height of signs. For signs described in subdivisions (A)(1) and (A)(2) of this section, signs may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs. For signs described in division (B) of this section, no sign may exceed 15 feet above grade.
- (E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

- (F) Billboard signs. Billboard signs are allowed in the I District by conditional use permit as provided by the Zoning Code ~~city zoning ordinance~~. A billboard sign must be the principal use on the lot on which it is located. The lot must meet the minimum lot requirements for the I District in accordance with the zZoning eCode. A billboard must not be erected within 300 feet of any Residential District. A billboard must not be located within a 1,320 foot radius of an existing or approved billboard. ~~A billboard must not be located in the T.H. 610 Corridor or Highway Overlay area as delineated in the T.H. 610 Corridor Plan and the zoning code.~~
- (1) Sign area. Billboard signs must not exceed one square foot of sign area for each lineal foot of street frontage nor may sign area exceed 300 square feet on any side. On corner lots or lots with more than one street frontage, only one street frontage will be considered in determining the sign area. Signs must have no more than two sides.
 - (2) Minimum setbacks. Billboard signs must be set back at least 50 feet from front and rear property lines and at least 25 feet from side property lines.
 - (3) Maximum height of signs. Billboard signs may not exceed 25 feet above grade.
 - (4) Minimum height of signs. Billboard signs must have a minimum height of 12 feet from grade to the bottom of the sign.
 - (5) Sign illumination. Billboard sign illumination must meet the requirements of § 150.03 of this chapter.

~~§ 150.30 PCDD PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PUD PLANNED UNIT DEVELOPMENT DISTRICT.~~

- ~~The following sections concern signs in the PCDD Planned Community Development District, and the PUD Planned Unit Development District, and said signs are regulated according to the requirements set forth below:~~
- ~~(A) In the PCDD or PUD Districts, a property used for single family, two family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.~~
- ~~(B) In PCDD and PUD Districts, a property used for other than single family, two family, residential townhouse or apartment use may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) below unless modified by a General Plan of Development or a planned unit development.~~
- ~~(1) Monument sign. One monument sign, not to exceed 120 square feet in area.~~
 - ~~(2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.~~
 - ~~(3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.~~
 - ~~(4) Wall signs. Multiple story buildings (three or more stories):~~
 - ~~(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.~~
 - ~~(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.~~
 - ~~(5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.~~
- ~~(C) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.~~
- ~~(D) Minimum setbacks.~~
- ~~(1) For subdivision (B)(1) of this section, monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. For subdivision (B)(2) of this section, free-standing signs must be set back at least 30 feet from all property lines, and monument signs must be set back at least 15 feet from all property lines. For division (C) of this section, signs must be set back at least 15 feet from front property line and at least ten feet from side and rear property lines.~~
 - ~~(2) On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear view triangle must be maintained at~~

public street intersections.

- ~~—(E) Maximum height of signs. For signs described in subdivision (B)(1) of this section, no sign may exceed 15 feet above grade. For signs described in subdivision (B)(2) of this section, no free-standing sign may exceed 25 feet above grade and no monument sign may exceed 15 feet above grade. For signs described in division (C) of this section, no sign may exceed 15 feet above grade.~~
- ~~—(F) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.~~

§ 150.31 150.30 PI PUBLIC INSTITUTIONAL DISTRICT.

The following sections concern signs in the PI Public Institutional District, and said signs are regulated according to the requirements set forth below:

- (A) In PI Districts, a property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a conditional use permit.
 - (1) Free-standing or monument sign. One freestanding sign, not to exceed 50 square feet in area, or one monument sign not to exceed 120 square feet.
 - (2) Area identification sign. One free-standing sign or monument sign per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.
 - (3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to one wall not to exceed ten percent of the building facade to which the signs are attached.
 - (4) Wall signs. Multiple story buildings (three or more stories):
 - (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
 - (b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.
 - (5) Two wall signs. Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations, defined in subdivisions (3) or (4) of this division.
- (B) Minimum setbacks. For subdivisions (A)(1) and (A)(2) of this section, all signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.
- (C) Maximum height of signs. For signs described in subdivision (A)(1) of this section, no sign may exceed 20 feet above grade. For signs described in subdivision (A)(2) of this section, no sign may exceed 25 feet above grade.
- (D) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

§ 150.32 HIGHWAY OVERLAY.

- ~~—The following provisions concern signs in the Highway Overlay area, and the signs are regulated according to the requirements set forth below. In the Highway Overlay, properties may erect only signs described in divisions (A), and (C) below, or in divisions (A) and (D) below, or in divisions (B) and (C) below, or in divisions (B) and (D) or in division (E) below unless modified by a Development Plan.~~
- ~~—(A) Monument sign. One monument sign, not to exceed 100 square feet in area.~~
- ~~—(1) Minimum setbacks. Monument signs must be setback at least 15 feet from the property lines adjacent to public rights of way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear view triangle at public street intersections.~~
- ~~—(2) Maximum height of signs. No sign may exceed 15 feet above grade.~~
- ~~—(3) Design and materials. Monument bases must be constructed of the same materials as the principal building.~~
- ~~—(B) Area identification sign. One monument sign per development, as described by § 150.03, not to exceed 220 square feet in area.~~
- ~~—(1) Minimum setbacks. Signs must be setback at least 15 feet from the property lines adjacent to public rights-~~

of way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear view triangle at public street intersections.

- ~~(2) Maximum height of signs. No sign may exceed 15 feet above grade.~~
- ~~(3) Design and materials. Monument bases must be constructed of the same materials as the principal building.~~
- ~~(C) Wall signs. Signs attached to only one wall, not to exceed 10% of the building facade to which the signs are attached.~~
- ~~(D) Wall signs. Multiple story buildings (three or more stories).~~
- ~~(1) Identification signs. One identification sign per building facade identifying the name and/or address of the building, not to exceed 10% in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.~~
- ~~(2) In addition to the identification signs described above, wall signs may be attached to only one wall not to exceed 10% of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.~~
- ~~(E) Two wall signs. Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations defined in division (B) above.~~

§ ~~150.33~~ 150.31 TRANSIT ORIENTED DEVELOPMENT (TOD) AND MIXED-USE DISTRICT.

- (A) In the TOD or MU Districts, a property used for single-family, two-family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.
- (B) In TOD and MU Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified through the approval of a sign plan at the time of Site Plan Review as approved by City Council.
 - (1) *Monument sign.* One monument sign not to exceed 120 square feet in area.
 - (2) *Area identification sign.* One monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.
 - (3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.
 - (4) *Wall signs.* Multiple story buildings (three or more stories):
 - (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
 - (b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.
 - (5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.
- (C) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this

chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

- (D) *Minimum setbacks.* Monument signs must be set back at least 1 foot from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear- view triangle must be maintained at public street intersections.
- (E) *Maximum height of signs.* Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 8 feet above grade for monument signs.

Sec. 2. Section 151.001 titled “PURPOSE” of the Brooklyn Park City Code is amended to read as follows:

§ 151.001 PURPOSE.

(A) This chapter may hereafter be known and cited as the “Brooklyn Park Subdivision Code”.

~~(A)-(B)~~ - The process of dividing raw land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. In most subdivisions, roads and streets must be maintained and various public services must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed and developed in accordance with sound rules and proper standards.

~~(B)~~ All subdivisions of land hereafter submitted for approval must fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (1) Encourage well planned, efficient, and attractive subdivisions by establishing reasonable standards for design and construction;
- (2) Provide for the public health, safety and general welfare of residents by requiring properly designed streets, park land, and adequate sanitary sewer, storm sewer and water service;
- (3) Place the cost of improvements against those benefitting financially from their construction; and
- (4) Secure the rights of the public with respect to public lands and waters.

~~(C)~~ The Council of the City of Brooklyn Park deems these regulations to be necessary for the preservation of the health, safety and general welfare of this community. These regulations have been developed under the authority contained in M.S. § 462.358, and are supplemented by appropriate sections of § 150.01, as indicated.

Sec. 3. Section 151.011 of the City Code, titled “STRUCTURES ABUTTING PUBLIC STREETS” is

amended to read as follows:

§ 151.011 STRUCTURES ABUTTING PUBLIC STREETS.

(A) With respect to parcels of land not subject to the provisions of M.S. § 462.358, Subd. 4b, and § 151.010 of this chapter, a building or structure must not be constructed or erected on such parcels, nor must any building permit be issued for such construction or erection, unless such parcels ~~about upon~~ have access to a public street which has been dedicated to and accepted by the city. This provision does not apply if the structure is to be used solely for agricultural purposes and the property is served by a private street or private easement.

(B) This requirement may be waived by the City Council if the Council makes the following findings:

(1) That the proposed structure is located on a properly designed ~~and approved~~ private street, as approved by the City Engineer; and

(2) The development is not in conflict with the city's growth management principles.

Sec. 4. Section 151.026 of the City Code, titled "SUPPLEMENTARY INFORMATION REQUIRED" is amended to read as follows:

§ 151.026 SUPPLEMENTARY INFORMATION REQUIRED.

The information set forth in this section must be filed with the preliminary plat:

(A) A complete topographic map at a scale of 1":100', 1":50', 1":40' or 1":20' and with contour intervals not greater than two feet showing water courses, flood plain limits, marshes, rock outcrops and other significant features, at least 150 feet beyond the boundary of the proposed plat, at least one print of the preliminary plat must be superimposed on a copy of the topographic map. U.S. Geodetic Survey datum must be used for all topographic mapping. Fulfillment of this requirement may be requested by the city staff, Planning Commission or City Council.

(B) Soil absorption tests where septic tanks are proposed, and any other subsoil information requested by the city staff, including soil bearings and water table.

(C) Plans for water supply, sewage disposal, proposed grades, drainage and flood control including the proposed locations, size and gradient of proposed sewer lines and water mains and such other supporting data as may be required by the city staff, Planning Commission, or the City Council.

(D) Center line gradients of proposed streets and alleys.

(E) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the rest of the subdivider's properties so as to show the relationship of the proposed subdivision to the future development of the adjacent property.

(F) Indicate if the land is registered or abstract property.

(G) Indicate other information as requested by the Departments of Community Development, Public Works or Parks and Recreation such as sidewalks, walkways, bikeways, berming or landscaping with a schedule of plantings or anticipated ground level building elevation(s).

(H) All plats within the ~~designated~~ Mississippi River Corridor Critical Area Overlay district as adopted in the Brooklyn Park Zoning Map, and defined by Executive Order No. 79-19 of the Critical Area Act of 1973, M.S. Chapter 116G, must indicate:

(1) Existing and proposed grades at two foot contour intervals.

(2) A landscaping plan as requested by the City Planner-Manager to compensate as transitioning, erosion control or improving the living environment.

(3) Submit an erosion and sedimentation control plan as requested by the City Engineer-
~~and the City Planner~~.

(4) Calculate and graphically describe the amounts and location of cut and fill determined in cubic yards. Length of storage and prevention measures for wind and water erosion must also be indicated.

(I) Drainage ponds. Determination shall be made between drainage ponds designed to hold water on a continuous basis and those designed to hold water on an infrequent basis. Areas designed for intermittent water storage shall be landscaped and maintained in accordance with required landscape provisions. Creation of larger, regional ponds is encouraged.

(J) Erosion and sediment control shall be addressed as follows:

(1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(3) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(4) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

(5) Where the topsoil is removed, sufficient topsoil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a minimum depth of three inches and shall be of a quality at least equal to the soil quality prior to development.

(6) Natural vegetation shall be protected wherever practical.

(7) Runoff shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

(8) Development shall comply with and follow the applicable best management practices for erosion and sedimentation control as described in the Minnesota Pollution Control Agency's (MPCA) Best Management Practices Handbook as may be amended.

(9) All stormwater facilities are subject to inspection for conformance to approved plans prior to acceptance by the city.

(10) Projects initiated or directed by the city shall not be exempt from these rules.

Sec. 5. Section 151.060 of the City Code, titled “LOTS” is amended to read as follows:

§ 151.060 LOTS.

(A) Location. All lots must abut for their full frontage on a publicly dedicated street.

(B) Size. The lot dimensions must be such as to comply with the minimum lot areas specified in the zoning ordinance. Lot square footages must be designated on the preliminary plat. A letter must accompany the final plat, certified by an engineer or surveyor, stating that all lot sizes meet plat requirements.

(C) Transition lots. When platting is adjacent to incompatible land uses, except parks, depth of lots must be increased to allow for space, berming or other landscaping techniques to buffer each land use.

(D) Side lot lines. Side lines of lots must be substantially at right angles to straight street lines or radial to curved street lines.

(E) Water courses. Lots abutting upon a water course, drainageways, channel, or stream must have sufficient depth and width to provide a minimum area of land not subject to flooding equal to the minimum lot dimensions specified in the zoning ordinance for the district in which the lots are located.

(F) Drainage. Lots must be graded so as to provide drainage away from building locations. All landscaping features, such as retaining walls, and filling or grading, within drainage and utility easements must be reviewed and approved by the City Engineer and the City ~~Planner~~ Manager.

(G) Natural features. In the subdividing of land, due regard must be shown for all natural features, such as tree growth, water courses, historic spots, or similar conditions, and plans must be adjusted to preserve those which will add attractiveness and stability to the proposed development.

(H) Lot remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable or non-conforming parcels.

(I) Adequate setbacks. All plats with lots or tracts abutting on collector or arterial streets must have adequate width and depth to provide for the minimum setbacks to build in accordance with all city codes.

(J) Minimum rear lot line. Where practical, all lots should have a minimum of 30 feet in width at the rear lot line.

(K) Double frontage lots. Double frontage (lots with frontage on two parallel streets) or reverse frontage lots are not permitted except where lots back against a collector or arterial street. Such lots must have additional depth to allow for screening and/or planting along the back lot line in accordance with the Zoning Code, Environmental Quality. Vehicular access may be restricted as a condition of the plat.

(L) Cul-de-sac lots. If the front line of any lot is a curve or partly a curve with a radius of 175 feet, the frontage for purposes of minimum requirements, will be measured at the building line. In addition thereto, the front footage of the front lot line will be 60 feet or as modified under special procedure provisions as established by the zoning ordinance.

- (b) The proposal blends with the architecture of the site.
- (c) The proposal provides convenient access for residents and businesses located within the development.
- (d) The proposal meets code requirements for all setback requirements including, but not limited to, the front and street side yards and corner cut-offs.
- (e) The proposal is accessible to trash collection vehicles.
- (f) The proposal does not generate the potential for undesirable odors, noise, flies or nuisances.
- (g) The proposal represents an improvement upon code requirements and more adequately meets the needs of the occupants.
- (2) Requests for consideration of alternatives.
 - (a) Requests for consideration of alternatives must be submitted to the City Manager with the following items: a written letter explaining the request, the reason for it, an explanation of how it meets the above seven criteria, a site plan, and a detail of the proposed alternative including specifications, colors and materials, and measures that will be taken to correct any problems associated with the proposed use if approved.
 - (b) After consideration, the City Manager may, upon written findings reflecting compliance with the above seven criteria, allow installation of the requested alternative.
 - (c) Alternatively, the City Manager may deny the request. Such denial shall set forth which criteria are not met.

Sec. 7. Section 153.05 of the City Code, titled "INCORPORATED BY REFERENCE" is amended to read as follows:

§ 153.05 INCORPORATED BY REFERENCE.

(A) The following are hereby incorporated into this chapter by reference:

~~(1) The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES Construction General Permit) issued by the MPCA, August 1, 2013, as amended. The NPDES Construction General Permit.~~

The Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as amended in its entirety as now constituted and from time to time amended. The NPDES Construction Stormwater General Permit.

(2) The city's ~~Surface~~ Local Water Management Plan. These standards shall serve as the official guide for principles, methods, and practices for proposed development activities.

(3) The Shingle Creek and West Mississippi Watershed Management Commissions Rules and Standards. (Ord. 2017-1217, passed 7-10-17)

Sec. 8. Section 153.06 of the City Code, titled "DEFINITIONS" is amended to add definitions as follows:

§ 153.06 DEFINITIONS.

FULLY RECONSTRUCTED IMPERVIOUS. Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, full depth reclamation projects, and other pavement rehabilitation projects that do not expose underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed (see figure below). Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

FULL DEPTH RECLAMATION. A rehabilitation method in which the full thickness of the asphalt pavement is pulverized and blended with a predetermined portion of underlying materials (base and/or subbase) to provide an upgraded, homogeneous material.

LINEAR PROJECT. Linear projects are projects with construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale.

Sec. 9. Section 153.07 of the City Code, titled “STORMWATER MANAGEMENT PLAN” is amended to read as follows:

§ 153.07 STORMWATER MANAGEMENT PLAN.

(A) Approval procedures.

(1) Application. A written application for stormwater management plan approval, along with a proposed stormwater management plan and maintenance agreement, shall be filed with the Engineering Division of the Operations and Maintenance Department. The application shall include a statement indicating the grounds upon which the approval is being requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter and the City Code.

(2) Required plan submittals.

(a) Two sets of clearly legible blue or black lined copies of drawings, electronic copy of drawings, and required information shall be submitted to the Engineering Division of the Public Works Department along with the process and approval fee. The plans shall be drawn at a minimum scale of one inch equals 100 feet and shall contain the following information:

1. Existing site map. A map of existing conditions showing the site and immediately adjacent areas within 200 feet of the site, including:

a. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets.

b. The location of the property by showing an insert map at a scale sufficient to clearly identify its location and giving such information as the name and numbers of adjoining roads, railroads, utilities, subdivisions, cities, townships and districts or other landmarks.

c. The existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet.

d. A delineation of all ponds, infiltration features, streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including the depth of the water, the normal water level (NWL), the 100-year high water level (HWL), the ordinary high water level (OHW), a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources (MnDNR), the MPCA or the United States Army Corps of Engineers (USACE).

e. The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects.

f. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of storm water system proposed and describing any remedial steps to be taken by the applicant to render the soils suitable.

g. The location and description of any vegetative cover and a clear delineation of any vegetation proposed for removal.

h. The location of 100-year floodplains, flood fringes and floodways.

i. The locations of any existing overhead or underground utilities.

j. The locations of property lines and easements.

k. A city approved benchmark listing location and elevation.

(3) Site construction plan. A site construction plan including:

(a) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities.

(b) Total site area.

- (c) Total area disturbed.
- (d) Locations and dimensions of all temporary soil or dirt stockpiles.
- (e) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter. A schedule of the anticipated start and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter.
- (f) Provisions for maintenance of the construction site erosion control measures during construction.
- (4) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the proposed site changes, including:
 - (a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.
 - (b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development.
 - (c) A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect.
 - (d) The proposed size, alignment and intended use of any structures to be erected on the site.
 - (e) A clear delineation and tabulation of all areas which will be paved or surfaced, including a description of the surfacing material to be used.
 - (f) Any other information pertinent to the particular project which, in the opinion of the applicant or the Engineering Department, is necessary for the review of the project.
 - (g) Proposed normal water level (NWL), 100-year high water level (HWL), ordinary high water level (OHW) of any ponds, infiltration facilities, streams, rivers, public waters, or wetlands on or downstream from the site.
 - (h) Building elevations including low floor elevations and low building opening elevations.
 - (i) Overland emergency overflow routes and their elevations.
- (5) Stormwater calculations. Calculations demonstrating the following data shall be provided, according to the method established by the Engineering Department:
 - (a) Drainage maps that show the site, land that drains onto the site, and land that the site drains onto for existing and proposed conditions. Delineated drainage areas for ponds, wetlands, or other relevant waters should be indicated on these maps.
 - (b) A stormwater model conforming to Engineering Department standards that includes drainage areas, cover types, pond and wetland sizes, pond and wetland outlets, and natural or piped conveyance systems.
 - (c) Peak runoff rates from the site before and after development demonstrating that the proposed conditions conform to the policies outlined in the city's ~~Surface~~-Local Water Management Plan and this chapter's design criteria.
 - (d) Volume of runoff from the site before and after development.
 - (e) National Urban Runoff Program ("NURP") volume below the normal outlet required and provided in each pond.
 - (f) Infiltration calculations for proposed conditions.
 - (g) A narrative summarizing the calculations and demonstrating that proposed drainage alterations do not unreasonably burden upstream or downstream land.
 - (h) Soil borings, if requested by the Engineering Department.
- (6) Maintenance agreement. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term stormwater treatment practices. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the Hennepin County recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the following inspection and maintenance obligations:
 - (a) The responsible party who is permanently responsible for maintenance of the structural and nonstructural measures.
 - (b) Pass responsibilities for such maintenance to successors in title.

(c) Allow the city and its representatives the right- of-entry for the purposes of inspecting all permanent stormwater management systems.

(d) Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent stormwater management system.

(e) Include a maintenance plan that contains, but is not limited to the following:

1. Identification of all structural permanent stormwater management systems.
2. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quality, temperature, and quantity of runoff.

3. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.

4. Include a schedule and format for reporting compliance with the maintenance agreement to the city.

(f) The issuance of a permit constitutes a right-of-entry for the community or city, its contractors, and agents to enter upon the construction site. The applicant shall allow the community city, its contractors, agents and any their authorized representatives, upon presentation of credentials, to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.

2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.

3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.

4. Inspect the stormwater pollution control measures.

5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

6. Correct deficiencies in stormwater and erosion and sediment control measures.

(B) Stormwater management plan review procedure.

(1) Process. Stormwater management plans and maintenance agreements meeting the requirements of this chapter shall be submitted to the Engineering Department for review and approval. The Engineering Division shall recommend approval, approval with conditions, or denial of the stormwater management plan and maintenance agreement to the Planning Commission. Following Planning Commission review, the stormwater management plan and maintenance agreement shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(2) Duration. Approval of a stormwater management plan and maintenance agreement submitted under the provisions of this chapter shall expire two years after the date of approval by the City Council unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Engineering Department for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant one extension of not greater than one single year.

(3) Revisions. A stormwater management plan and maintenance agreement may be revised. All revised plans must contain all information required by this chapter and must be reviewed and approved by the Engineering Department.

(4) Conditions. A stormwater management plan and maintenance agreement may be approved by the City Council subject to compliance with conditions that are necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins and other facilities; require replacement of vegetation; establish required monitoring procedures; require that the work be staged over time; require alteration of the site's design to ensure buffering; or require the conveyance to the city or other public entity of certain lands or interests therein.

(5) Agreement. Upon approval of the stormwater management plan and maintenance agreement by the City Council, the applicant shall enter into an agreement with the city to ensure that any required improvements are constructed, any required easements are granted or dedicated and that there is compliance with any conditions imposed by the City Council. The agreement shall guarantee completion

and compliance with the conditions within a specific time, which time may be extended by the City Council. The agreement shall be in a form acceptable to the city.

(6) Financial guarantee. Upon approval of the stormwater management plan and maintenance agreement by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the stormwater management plan. This financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee provided for grading activities and/or the financial guarantee provided for street and utility activities.

(7) Fees. All applications for stormwater management plan and maintenance agreement approval shall be accompanied by a processing and approval fee as set by the most recent edition of the city's adopted Fee Schedule.

(C) Stormwater management plan approval and implementation standards.

(1) Compliance with standards. No stormwater management plan which fails to meet the standards contained in this section shall be approved by the City Council.

(2) All stormwater management plans must be submitted to the City Engineer prior to the start of construction activity. At a minimum all applicants shall meet the criteria set forth below and observe the standards established in NPDES Construction Stormwater General Permit requirements.

(3) The city adopts the MPCA's Minnesota Stormwater Manual as its stormwater runoff design standards.

(4) All stormwater management plans must address erosion and sediment control requirements of this chapter.

(5) Stormwater management requirements for permanent facilities.

(a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to meet the criteria of the NPDES Construction Stormwater General Permit. No private stormwater facilities will be approved by the city unless a maintenance agreement and maintenance plan are provided that defines who will conduct the maintenance, the type of maintenance and intervals of the maintenance to be performed. In the alternative, or in partial fulfillment of this requirement and upon approval of the Engineering Department, an applicant may make an in-kind or monetary contribution to the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(b) Proposed stormwater management plans shall incorporate volume control, water quality control, and rate control as the basis for stormwater management in the proposed development plan on sites without restrictions. All proposed projects shall be in conformance with the most current requirements of the MPCA's Municipal Separate Storm Sewer Systems (MS4) Permit and the Shingle Creek and West Mississippi Watershed Management Commissions, as applicable.

1. Volume control.

a. New development projects less than one acre in size.

i. The applicant shall provide a detailed plan and/or narrative describing the BMPs that will be incorporated in the development to reduce runoff volume and improve water quality.

ii. There shall be no net increase from pre-project conditions (on an annual average basis) of:

1) Stormwater discharge volume, unless precluded by the stormwater management limitations as defined by the MPCA's MS4 Permit.

2) Stormwater discharges of total suspended solids (TSS).

3) Stormwater discharges of total phosphorus (TP).

b. New development. For new, nonlinear developments, stormwater runoff volumes abstraction via infiltration will be controlled and the post-construction runoff volume shall be retained on site for 4-01.1 inches of runoff from all impervious surfaces on the site that result in a net increase of impervious of one acre or greater. If filtration of the water quality volume is deemed necessary through alternative compliance sequencing, the required stormwater runoff volume shall be multiplied by 1.82 (i.e. 55% filtration credit) and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet).

c. Redevelopment. For redevelopment projects, stormwater runoff volume abstraction via infiltrations

will be controlled and the post-construction runoff volume shall be retained on site for ~~4-01.1~~ 1.1 inches of runoff from the new impervious surfaces created by the project. If filtration of the water quality volume is deemed necessary through alternative compliance sequencing, the required stormwater runoff volume shall be multiplied by 1.82 (i.e. 55% filtration credit) and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet). There shall be a net reduction from pre-project conditions (on an annual average basis) of:

- i. Stormwater discharge volume, unless precluded by the stormwater management limitations as defined by the MPCA's MS4 permit.
- ii. Stormwater discharges of TSS.
- iii. Stormwater discharges of TP.

D. Linear Projects. For linear projects, the water quality volume must be calculated as the larger of one (1) inch times the new impervious surface or one-half (0.5) inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume prior to discharge from the MS4.

2. Water quality control. The water quality requirement is met if the project meets the volume control requirement outlined in 153.07C5b1.

- a. Where infiltration is not advisable or infeasible due to site conditions, biofiltration must be provided for that part of the abstraction volume that is not abstracted by other BMPs. Where biofiltration is infeasible, at a minimum filtration through a medium that incorporates organic material, iron fillings, or other material to reduce soluble phosphorus must be provided.
- b. There shall be no net increase in total phosphorus (TP) or total suspended solids (TSS) from pre-development land cover to post-development land cover. Predevelopment land cover is defined as the predominant land cover over the previous 10 years.

- a. Full abstraction of 1.1 inches of runoff from all impervious surfaces will satisfy the water quality requirement.
- b. If it is not feasible to achieve the full 1.1-inch abstraction requirement, a combination of BMPs may be used to achieve the no-net-increase requirement using a water quality calculation method as outlined in the Minnesota Stormwater Manual.
- c. If permanent sedimentation and water quality ponds are used, they shall be designed to the standards set forth in the Minnesota Stormwater Manual.
- d. Runoff may be directed to a downstream facility within the same hydrologic subwatershed that has sufficient capacity to provide the required treatment. This means that no treatment may be required for an individual development provided there is a regional facility designed and constructed to accommodate the flow from this property

~~—a. New development. Water quality treatment is required to meet NURP guidelines and to result in no net increase from pre-project conditions (on an annual average basis) of stormwater discharges of TSS and TP for projects that result in a net increase of impervious of one acre or greater.~~

~~—b. Redevelopment. Water quality treatment is required to meet NURP guidelines and to result in a net reduction in pre-project conditions (on an annual average basis) of stormwater discharges of TSS and TP for projects that have construction activity that is one acre or greater in size.~~

3. Rate control. Rate control measures are required on new development and redevelopment projects

to meet this chapter's design criteria, the Minnesota Stormwater Manual and Shingle Creek and West Mississippi River Watershed Management Commissions requirements.

(c) The applicant shall reduce the need for stormwater treatment practices by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

(d) The following stormwater management practices shall be investigated by the applicant in developing a stormwater management plan in the following descending order of preference, and the results of that investigation shall be provided to the city in written form as a part of the application:

1. Natural infiltration of precipitation on-site.
2. Flow attenuation by use of open vegetated swales and natural depressions.
3. Green infrastructure by use of rain gardens, bioswales, constructed wetlands, and other constructed infiltration practices.
4. Stormwater retention facilities.
5. Stormwater detention facilities.

(e) A combination of stormwater treatment practices may be used to achieve the applicable minimum control requirements specified in the subsection above. Justification shall be provided by the applicant for the method selected.

(f) Pond design standards. Stormwater detention facilities constructed in the city shall be designed according to standards established by the Engineering Division of the Operations and Maintenance Department, and shall contain, at a minimum, the following design factors:

1. A permanent pool ("dead storage") volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a 2.5-inch, 24-hour storm over the entire contributing drainage area assuming full development.
2. A permanent pool average depth (basin volume/basin area) of four to ten feet.
3. An emergency overflow (emergency outlet) adequate to control the 100-year frequency critical duration rainfall event.
4. Basin side slopes below the 100-year high water level should be no steeper than 4:1, and preferably flatter. A basin shelf with a minimum width of ten feet and one foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance.
5. To prevent short-circuiting, the distance between major inlets and the normal outlet shall be maximized.
6. A flood pool ("live storage") volume above the principal outlet spillway shall be adequate so that the peak discharge rate from the 1-, 10- and 100-year frequency critical duration storm is not greater than the peak discharge for a similar storm and predevelopment watershed conditions.
7. Effective energy dissipation devices which reduce outlet velocities to four feet per second or less shall consist of riprap, stilling pools or other such measures to prevent erosion at all storm water outfalls into the basin and at the detention basin outlet.
8. Consideration for aesthetics and wildlife habitat should be included in the design of the pond.
9. A skimming device must be provided to deter floatable pollutants from discharging out of pond.
10. Pond NWL elevations shall be established above the OHW of adjacent MnDNR water bodies, except where topography of the site, floodplain mitigation activities, or other design considerations are determined to be unfavorable for these conditions to occur. This determination shall be performed by an engineer, provided by the applicant, and approved by the Engineering Division of the Operations and Maintenance Department.
11. All constructed ponds shall have a maintenance access bench sufficient to provide access to all inlets and outlets. The maintenance bench shall be located within a designated outlot or within a permanent easement. The maintenance bench shall extend from the outlet elevation to one foot above the outlet elevation and its cross slope shall be no steeper than 10:1. The maintenance bench shall connect to the maintenance access.
12. All constructed ponds shall be provided a maintenance access from an adjacent roadway. The

maintenance access shall be provided in the form of an easement no narrower than 20 feet. The maintenance access shall have a longitudinal slope no steeper than 6:1 and minimal cross slope. Maintenance access routes, due to their extra width, also serve well as emergency overflow (EOF) routes.

(g) Infiltration requirements. BMPs will be required to the maximum extent practical as determined by the Engineering Division of the Operations and Maintenance Department or its designee.

1. Maximum extent practical shall be the infiltration of runoff from the 100-year, 24-hour rainfall event within 48 hours. The maximum extent practical may be less than this if the Engineering Division of the Operations and Maintenance Department determines that one or more of the following conditions apply:

- (a) Infiltration characteristics of soils on site are not favorable for infiltration of stormwater.
- (b) The site's drainage course is to regional infiltration or detention facilities controlled by the city that reduce runoff volumes.
- (c) When the site's impervious areas are not increased due to development.
- (d) Other site conditions that make infiltration of stormwater impractical on the site as determined by the Engineering Division of the Operations and Maintenance Department.

(e) If one or more of these conditions apply, the Engineering Division of the Public Works Department shall quantify infiltration that will be deemed as the maximum extent practical for the site.

2. Infiltration will be prohibited where the infiltration BMP will be constructed in any of the following areas:

- a. Where documented past, present, or anticipated future land uses have resulted in or may result in contamination coming in contact with stormwater runoff.
- b. With less than three feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
- c. Where vehicle fueling and maintenance occur.
- d. Where industrial facilities are not authorized to infiltrate industrial stormwater under and NPDES/SDS Industrial Stormwater Permit issued by the MPCA.

3. Infiltration will be restricted and subject to additional city review where the infiltration BMP will be constructed in any of the following areas:

- a. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
- b. Where drinking water supply management areas are present, as defined by Minn. Rules 4720.51000, subp.13, unless precluded by a local unit of government with an MS4 permit.
- c. Soils are predominately Hydrologic Soil Group D (clay) soils.
- d. Soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour.

4. Stormwater runoff shall be treated in a stormwater pond or by other means prior to entering an infiltration facility.

5. The minimum infiltration requirements for any region of the city will be the requirements of the Shingle Creek and West Mississippi River Watershed Management Commissions' policies that govern that region. Shingle Creek and West Mississippi River Watershed Management Commissions' standards may be met through the use of regional or downstream systems prior to discharge of runoff to waters of the state.

6. Infiltration systems must not be excavated to final grade until the contributing drainage area has been constructed and fully stabilized. When the infiltration feature is excavated to final grade, rigorous erosion prevention and sediment control BMPs must be implemented to keep sediment and runoff completely away from the infiltration area.

7. To prevent clogging of the infiltration system, a pretreatment device must be used to settle particles before the stormwater discharges into the infiltrations system.

8. Per the stormwater management requirements for permanent facilities section of this chapter, the infiltration system must provide a water quality volume (calculated as an instantaneous volume) of one inch of runoff (or one inch minus the volume of stormwater treated by another system on the site) from the new impervious surfaces created by the project.

9. The applicant must ensure filtration systems with less than three feet of separation from seasonally saturated soils or from bedrock are constructed with an impermeable liner.

10. A minimum maintenance access of 12 feet is required.

(h) Mitigation.

1. Where construction projects cannot meet the TSS and/or TP reduction requirements for new or development projects on the site of original construction, all methods must be exhausted prior to considering alternative locations where TSS and TP treatment standards can be achieved. If the City has determined that all methods have been exhausted, the permittee will be required to identify alternative locations where TSS and TP treatment standards can be achieved. Mitigation projects will be chosen in the following order of preference:

a. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.

b. Locations within the same MnDNR catchment area as the original construction activity.

c. Locations in the next adjacent MnDNR catchment area up-stream.

d. Locations anywhere within the City of Brooklyn Park.

2. In addition, mitigation projects must also meet the following criteria:

a. Mitigation projects shall involve the establishment new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.

b. Previously required routine maintenance of structural stormwater BMPs cannot be considered mitigation.

c. Mitigation projects must be finished within 24 months after the original construction activity begins.

d. A maintenance agreement specifying the responsible party for long-term maintenance shall be identified.

(i) Stormwater and infiltration facilities must be located at least 50 feet away from the top of bluff.

(j) Watershed management plans/groundwater management plans. Stormwater management plans shall be consistent with the Shingle Creek and West Mississippi River Watershed Management Commissions requirements and groundwater management plans prepared in accordance with Minnesota Board of Water and Soil Resources in accordance with state law.

(k) Easement. If the stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests to permit the flow of water across the property.

(l) Low floor/building opening elevations.

1. Any new development or redevelopment shall maintain a minimum building opening elevation of at least three feet above the anticipated 100-year high water elevation as a standard practice. However, if the applicant demonstrates that this requirement would be a hardship, the standard may be reduced to two feet if all of the following can be demonstrated:

a. That, within the two-foot freeboard area, stormwater storage is available which is equal to or exceeds 50% of the storm water storage currently available in the basin below the 100-year elevation.

b. That a 25% obstruction of the basin outlet over a 24-hour period would not result in more than one foot of additional bounce in the basin.

c. That an adequate overflow route from the basin is available that will provide one foot of freeboard for the proposed low building opening.

2. Basement floor elevations must be set to an elevation that meets all of the following criteria:

a. The lowest floor elevation must be at least four feet above the currently observed groundwater elevations in the area.

b. The lowest floor elevation must be at least two feet above the elevation of any known historic high groundwater elevations for the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, etc.

c. The lowest floor elevation must be at least two feet above the 100-year high surface water elevation for the area unless it can be demonstrated that this standard creates a hardship. If the two-foot standard is determined by the City Council to constitute a hardship, the standard shall be at least one foot above the highest anticipated groundwater elevation resulting from a 100-year critical duration rainfall event. The impact of high surface water elevations on groundwater elevations in the vicinity of the structure should take into consideration the site's distance from the floodplain area, the soils, the normal water elevation of surface depressions in the area, the static groundwater table and historic water elevations in the area. This

information shall be provided by a registered engineer or soil scientist.

(m) Impervious surface coverage of each lot must not exceed the impervious surface coverage allowed under the Zoning Ordinance.

(n) Storm sewers shall be designed to accommodate discharge rates associated with a 10-year, 24-hour rainfall event.

Sec. 10. Section 153.08 of the City Code, titled "EROSION CONTROL PLAN" is amended to read as follows:

§ 153.08 EROSION CONTROL PLAN.

(A) Applicability.

(1) Application. An erosion control plan shall be submitted to the Engineering Division of the Operations and Maintenance Department when required by this chapter along with a grading permit application. All applications for a grading permit shall be accompanied by a processing and approval fee as set by the city's Fee Schedule.

(2) Required plan submittals. The erosion control plan shall contain all of the following with respect to conditions existing on site during construction and after final structures and improvements have been completed.

- (a) A description of and specifications for sediment retention and settling devices.
- (b) A description of, specifications for, and detail plates for surface runoff and erosion control devices.
- (c) A description of vegetative measures.
- (d) A detailed timetable for restoring all disturbed areas.
- (e) A graphic representation of the location of all specified erosion and sediment control devices.
- (f) An implementation schedule for installing and subsequently removing devices described above.
- (g) A maintenance schedule for all sediment and erosion control devices specified.
- (h) An estimate of the costs to implement all final and temporary erosion and sediment control measures.
- (i) An Information sheet on the parties responsible for constructing and maintaining the erosion control measures as shown on the erosion control plan. The information sheet should contain the phone numbers and addresses of at least two persons and indicate how they can be contacted at all times (days, nights, weekends, etc.) regarding repairing and maintaining the erosion control measures.
- (j) The erosion control plan must contain details to specify which erosion and sediment control facilities are permanent and which are temporary.
- (k) If required, a NPDES Construction Stormwater General Permit must be obtained from the MPCA prior to commencing construction activities. The associated stormwater pollution prevention plan (SWPPP) should be included in the erosion control plan and approved by the Engineering Division of the Operations and Maintenance Department prior to construction. A copy of the NPDES Construction Stormwater General Permit must be provided to the city prior to construction.

(3) Application review and inspection fees.

(a) The City of Brooklyn Park shall charge an application review fee for the review of the building permit application and the erosion control plan. As part of this review, the city will review the permittee's as-built survey submitted after the completion of grading activities to ensure that it conforms to the overall erosion control plan for the area. The application fee shall be set by the city's Fee Schedule.

(b) An inspection fee will be charged for any inspections of the site by the city that are needed to review corrective erosion control work or to follow up on previously incomplete work. This inspection fee will be deducted from the financial security. The amount will be set by the city's Fee Schedule. If this fee is not paid within 45 days, the fee may be taken from the financial security provided by the applicant.

(B) Implementation of erosion control plan. Prior to the start of any earthwork activities, the permittee must have in place and functional erosion and sediment controls as outlined on the approved erosion control plan and/or SWPPP. Additional erosion control measures may be required as directed by the Engineering Division of the Operations and Maintenance Department or its designee.

(1) No earthmoving activities shall commence until the erosion controls have been field inspected and

approved by the Engineering Division of the Operations and Maintenance Department.

(2) At a minimum, the permittee shall meet the specifications set forth below and observe the standards established in the NPDES Construction Stormwater General Permit requirements:

(a) Soil stabilization. Soil stabilization shall be completed in a time period as specified by the NPDES Construction Stormwater General Permit and the city's general specifications and standards. The City of Brooklyn Park may require the site to be reseeded or a nonvegetative option employed.

(b) Seeding. Seeding shall be in accordance with seeding specifications. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention.

(c) Soil stockpiles. Soil stockpiles which shall be inactive for a period of 14 or more days must be stabilized or covered at the end of each workday. Stockpiles shall include perimeter sediment controls and must not be placed in natural buffers or surface waters, including stormwater conveyance systems.

(d) 90% coverage. The entire site must be stabilized at a 90% coverage, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

(e) Site development sediment controls. Site development sediment controls practices shall include those identified in the city's general specifications including, but not limited to:

1. Settling basins, sediment traps, or tanks.

2. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

3. Perimeter control including machine sliced silt fence or other city approved BMP, which shall be in place before, during and after grading of the site. Fencing shall be removed only after ~~70%~~final stabilization.

4. Designated as a temporary construction staging area.

(f) Temporary sediment basins. For sites that have more than ten acres of disturbed soil that drains to a common location (or, five or more acres for special or impaired waters), one or more temporary sediment basins shall be constructed. Use of temporary basins is encouraged when construction projects will impact steep slopes or when highly erodible soils are present. The basin shall provide treatment to the runoff before it leaves the construction site or enters surface waters. The temporary sediment basins must be designed and constructed as follows:

1. Provide live storage for a calculated volume of runoff from a two-year, 24-hour storm from each acre drained to the basin. All basins shall provide at least 1,800 cubic feet of live storage from each acre drained or more.

2. For basins where the calculation in § 153.08(B)(2)(f)1 has not been performed, a temporary sediment basin providing 3,600 cubic feet of live storage from each acre drained to the basin shall be provided for the entire drainage area of the temporary basin.

3. The outlet structure must be designed to withdraw water from the surface in order to minimize the discharge of pollutants.

4. The basin outlet shall be designed to prevent short-circuiting and the discharge of floating debris.

5. Ensure the basin can be completely drawn down to conduct maintenance activities.

6. Include energy dissipation on the outlet of the basin and a stabilized emergency overflow to prevent failure of pond integrity.

7. Be located outside of surface waters or any buffer zone, and be designed to avoid draining water from wetlands unless appropriate approval from the USACE and the MnDNR is obtained.

8. If installation of a temporary sediment basin is infeasible equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, vegetative buffer strips, or any appropriate combination of measures are required for all down-slope boundaries of the construction area and for side-slope boundaries where appropriate. Determination of infeasibility shall be documented in the erosion and sediment control plan.

(g) Individual construction site sediment controls. Individual construction site sediment controls shall include:

1. Rock construction entrance (driveway).

2. Perimeter controls including silt fence in-place before, during and after grading of the site. Fencing shall be removed only after proper turf establishment.

(h) Waterway and watercourse protection. Waterway and watercourse protection requirements shall

include stabilization of the watercourse channel before, during and after any in-channel work consistent with the city's general specifications.

1. A temporary stream crossing must be installed and approved by the local government unit and regulating agency if a wet watercourse will be crossed regularly during construction.
2. The watercourse channel shall be stabilized before, during, and within 24 hours after any in-channel work.
3. No in-water work shall be allowed in public waters during the MnDNR's work exclusion dates.
4. Prior to placement of any equipment into any waters, all equipment must be free of aquatic invasive species.
5. All on-site stormwater conveyance channels designed according to the criteria outlined in this document. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels is required.

(i) Site dewatering. Site dewatering shall be conducted pursuant to the NPDES Construction Stormwater General Permit. Water pumped from the site shall be treated by temporary sediment basins, grit chambers, sand filters, or other controls as appropriate to ensure adequate treatment is obtained and that nuisance conditions will not result from the discharge. Discharges from the site shall not be released in a manner that causes erosion, scour, sedimentation or flooding of the site to receiving channels or wetlands.

(j) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

1. Solid waste. All unused building materials and waste (including, but not limited to: collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, etc.) must be disposed of accordingly and shall comply with disposal requirements set forth by the MPCA.

2. Hazardous/toxic waste. Paint, gasoline, oil and any hazardous materials must be properly stored, including secondary containment, to prevent spills, leaks or other discharges. Access to the storage areas must be restricted to prevent vandalism. Storage and disposal of hazardous or toxic substance must be in compliance with the requirements set forth by the MPCA.

3. Liquid waste. All other non-stormwater discharges (including, but not limited to, concrete truck washout, vehicle washing or maintenance spills) produced during the construction activity shall not be discharged to any surface waters.

4. External washing of equipment and vehicles. All external washing activities shall be limited to a designated area of the site. All runoff must be contained and wastes from external washing activities must be disposed of properly. No engine degreasing shall be allowed on the site.

5. Wastes generated by concrete and other washout operations. All liquid and solid wastes generated by any concrete or other washout operations must be contained in a leak proof facility or impermeable liner. Concrete waste must not come into contact with the ground. Concrete waste must be disposed of properly and in compliance with applicable MPCA regulations.

(k) Drain inlet protection. All storm drain inlets shall be protected during construction until all sources with potential for discharging to the inlet have been stabilized. Inlet protection measures must meet the city's standards and specifications.

(l) Energy dissipation. Pipe outlets must have temporary or permanent energy dissipation within 24 hours of connection to a surface water.

(m) Tracking. Vehicle tracking BMPs (including, but not limited to: rock pads, mud mats, slash mulch, concrete or steel wash racks, or similar systems) must be installed to minimize track out of sediment from the construction site. If vehicle tracking BMPs are not actively preventing sediment from being tracked into the street, the applicant must utilize street sweeping to contain sediment.

(n) Final stabilization. Final stabilization is not complete until the following criteria are met:

1. All land disturbing activities must be finished and all soils shall be stabilized by a uniform perennial vegetative cover with a density of 70% or greater of its expected final growth density over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.
2. The permanent stormwater management system is constructed, meets all of the required design parameters and is operating as designed.

3. All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) have been removed. BMPs designed to decompose on site may be left in place.

4. For residential construction only, individual lots are considered finally stabilized if the structure(s) are finished and temporary erosion protection and down gradient perimeter control has been completed and the residence has been sold to the homeowner.

5. For construction projects on agricultural land the disturbed land has been returned to its preconstruction agricultural use.

(3) The permittee must maintain the erosion and sediment control measures on the site to the satisfaction of the City Engineer throughout the entire construction process. If erosion and sediment control is not being maintained to the City Engineer's satisfaction, the city may perform remedial work on the site as outlined in this section.

(4) All erosion control systems must be maintained by the permittee in an acceptable condition until turf is established or structural surfaces are constructed to protect the soil from erosion.

(C) Inspection of erosion control plan. The city will make periodic inspections of the site to ensure compliance with the erosion control plan. The permittee or his/her agent shall ensure that a trained person will regularly inspect the construction site at least once every seven days until final stabilization and within 24 hours of a rainfall event of one-half inch or greater in a 24-hour period. All inspection and maintenance activities conducted on the site during construction must be recorded in writing and retained within the erosion control plan. Records of each inspection and maintenance activity shall include the following:

(1) Date and time of inspection.

(2) Name of person(s) conducting the inspection.

(3) Findings of inspections, including recommendations for corrective actions.

(4) Corrective actions taken, including the dates, times and the name of the party completing the corrective action.

(5) Date and the amount of rainfall events that are greater than one-half inch in a 24- hour period.

(6) Documentation of any changes made to the erosion and sediment control plan.

(D) Site and BMP maintenance. Prior to any construction, the developer shall provide the City Engineer with a schedule for erosion and sediment control inspection and maintenance, including schedules for street cleaning, and street sweeping. All site and BMP maintenance activities must comply with the requirements of the NPDES eConstruction Stormwater general Permit. The applicant shall investigate and comply with the following BMP maintenance requirements:

(1) Perimeter control. All perimeter controls must be repaired, replaced or supplemented when they become nonfunctional or the sediment reaches one-half of the height of the fence. Repairs shall be made by the end of the next business day after discovery or as soon as field conditions allow access.

(2) Temporary sediment basins. Temporary sedimentation basins must be drained and the sediment must be removed when the depth of the sediment collected in the basin reaches one half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.

(3) Surface waters and conveyance systems. Surface water, including drainage ditches and conveyance systems, must be inspected for visible signs of sediment being deposited by erosion. The applicant must remove all sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas of exposed soil as a result of sediment removal. The removal and stabilization must take place within seven days of discovery unless legal, regulatory or physical access constraints prevent remediation. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.

(4) Streets and impervious surfaces. Where vehicle traffic leaves any part of the site, the exit locations must be inspected for visible signs of off-site sediment tracking onto impervious surfaces. Tracked sediment must be removed from all off-site impervious surfaces as soon as possible or within 24 hours of discovery.

(5) General maintenance. The applicant shall be responsible for the operation and maintenance of temporary and permanent water quality management BMPs, as well as erosion prevention and sediment

control BMPs for the duration of the construction work on the site. The applicant remains responsible until another party has assumed control over all areas of the site that have not established final stabilization and a notice of termination (NOT) has been submitted to the MPCA.

(6) Infiltration areas. All infiltration areas must be inspected to ensure that no sediment from ongoing construction activities is reaching the infiltration area and these areas are protected from compaction caused by construction equipment driving across the infiltration area.

(E) Notification of failure of erosion control plan. The city shall notify the permittee of the failure of the erosion control measures that have been constructed. The notification will be by phone or written correspondence to the parties listed on the information sheet required by this section. The city, at its discretion, may begin remedial work within 48 hours after notification has been provided.

(F) Erosion off-site. If erosion breaches the perimeter of the site, the permittee shall immediately develop a cleanup and restoration plan, obtain a right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Engineering Division of the Operations and Maintenance Department, may more than seven calendar days pass without any corrective action being taken. If at the discretion of the city, the permittee does not repair the damage caused by the erosion, the city may perform the remedial work required, after notice is provided to the permittee.

(G) Erosion into streets, wetlands, or other surface waters. If eroded soils enter, or entrance appears imminent into streets, wetlands, or other surface waters, cleanup and repair shall be immediate. The permittee shall provide all traffic control and flagging required to protect the public during the cleanup operations. If at the discretion of the city, the permittee does not repair the erosion and sedimentation, the city may perform the remedial work required, after notice is provided to the permittee.

(H) Failure to complete corrective work. When a permittee fails to conform to any provision of this section within the time stipulated, the city may take the following actions:

(1) Issue a notice of violation. When the city determines that an activity is not being carried out in accordance with the requirements of this chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- (a) The name and address of the owner or applicant.
- (b) The address when available or a description of the land upon which the violation is occurring.
- (c) A statement specifying the nature of the violation.
- (d) A description of the remedial measures necessary to bring the development activity into compliance with this chapter and a time schedule for the completion of such remedial action.
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(f) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of services of the notice of violation. Service may be accomplished by mail or by personal delivery of the notice.

(2) Withhold the scheduling of inspections.

(3) Withhold the issuance of a certificate of occupancy.

(4) Issue a stop work order.

(5) Direct the correction of the deficiency by city forces or separate contract. The issuance of an erosion control permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies with respect to erosion and sediment control. All costs incurred by the city in correcting erosion and sediment control deficiencies, including administrative expenses, shall be reimbursed by the permittee. If payment is not made within 30 days after an invoice is issued, the city may draw from the financial security. If the financial security is of an insufficient amount, the city may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S. § 429.081 to challenge the amount or validity of assessment.

The City Council has determined that pursuant to its City Charter, Ordinance #2024-____ should be published in summary form.

SUMMARY OF ORDINANCE #2024-____

ORDINANCE AMENDING TITLE XV: LAND USAGE OF THE BROOKLYN PARK CODE FOR CONSISTENCY WITH THE BROOKLYN PARK 2040 COMPREHENSIVE PLAN.

Ordinance #2024-____, amends Title XV: Land Usage

Changes to Title XV: Land Usage

This title was revised in its entirety for consistency with the 2040 Comprehensive Plan, as well as Statutory and Federal requirements governing signage.

ATTEST:

HOLLIES WINSTON, MAYOR

DEVIN MONTERO, CITY CLERK

Approved as to Form by City Attorney

Passed on First Reading:

Passed on Second Reading:

Summary Published in Official Newspaper:

152.530 MISSISSIPPI RIVER CORRIDOR CRITICAL AREA**A. AUTHORITY, INTENT AND PURPOSE**

- (1) **Statutory Authorization.** This Mississippi River Corridor Critical Area (MRCCA) section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 116G, Minnesota Rules, Parts 6106.0010 - 6106.0180, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462 and 473.
- (2) **Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

B. GENERAL PROVISIONS

- (1) **Jurisdiction.** The provisions of this *section* apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the zoning map (*insert reference citation*).
- (2) **Enforcement.** The *City Manager* is responsible for the administration and enforcement of this section. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this *section* can occur regardless of whether a permit is required for a regulated activity listed in Section 152.530(C)(2).
- (3) **Severability.** If any section, clause, provision, or portion of this *section* is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this *section* shall not be affected thereby.
- (4) **Abrogation and Greater Restrictions.** It is not intended by this *section* to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this *section* imposes greater restrictions, the provisions of this *section* shall prevail. All other *sections* inconsistent with this *section* are hereby repealed to the extent of the inconsistency only.
- (5) **Underlying Zoning.** Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

C. ADMINISTRATION

- (1) **Purpose.** The purpose of this Section is to identify administrative provisions to ensure this *section* is administered consistent with its purpose.
- (2) **Permits.** A permit is required for the construction of structures and additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, vegetation removal consistent with Section 152.530(I) and land alterations consistent with Section 152.530(J).
- (3) **Variances.** Variances to the requirements under this *section* may only be granted in accordance with Minnesota Statutes, Section 462.357 and must consider the potential impacts of variances on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the variance application, the *City Council* shall:
 - (A) Evaluate the impacts to these resources. If negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with Section 152.530(C)(5) and
 - (B) Make written findings that the variance is consistent with the purpose of this section, as follows.
 - i. The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan;

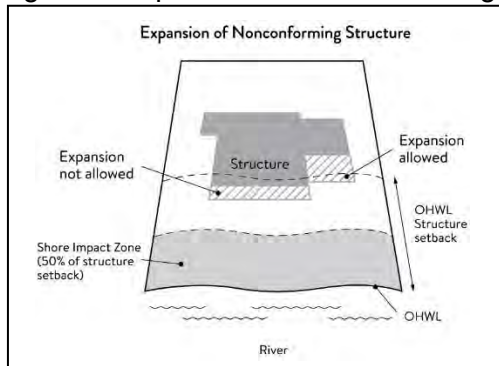
- ii. The variance is consistent with the character and management purpose of the MRCCA district in which it is located;
 - iii. The variance will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions; and
- (4) **Conditional and interim use permits.** All conditional and interim uses, required under this *section*, must comply with Minnesota Statutes, section [462.3595](#) and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the *City Council* shall:
 - (A) Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with Section 3.5; and
 - (B) Make written findings that the conditional use is consistent with the purpose of this (section, chapter, or article), as follows.
 - i. The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;
 - ii. The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;
 - iii. The conditional use will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions; and
- (5) **Conditions of Approval.** The *City Council* shall evaluate the impacts to PCAs, PRCVs, and other resources identified in the MRCCA Plan, and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts. Mitigation may include:
 - (A) Restoration of vegetation identified as “vegetation restoration priorities” identified in the MRCCA plan.
 - (B) Preservation of existing vegetation;
 - (C) Stormwater runoff management;
 - (D) Reducing impervious surface;
 - (E) Increasing structure setbacks;
 - (F) Wetland and drainageway restoration and/or preservation; and
 - (G) Other conservation measures.
- (6) **Application materials.** Applications for permits and discretionary actions required under this *section* must submit the following information unless the City Manager determines that the information is not needed.
 - (A) A detailed project description; and
 - (B) Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:
 - i. Primary conservation areas;
 - ii. Public river corridor views;
 - iii. Buildable area;
 - iv. Existing and proposed topography and drainage patterns;
 - v. Proposed storm water and erosion and sediment control practices;
 - vi. Existing and proposed vegetation to be removed and established;
 - vii. Ordinary high water level, blufflines, and all required setbacks;
 - viii. Existing and proposed structures;
 - ix. Existing and proposed impervious surfaces; and

- x. Existing and proposed subsurface sewage treatment systems.

(7) Nonconformities.

- (A) All legally established nonconformities as of the date of this ordinance may continue consistent with 462.357 Subd. 1e.
- (B) New structures erected in conformance with the setback averaging provisions of Section 152.530(F)(4) are conforming structures.
- (C) Site alterations and expansion of site alterations that were legally made prior to the effective date of this ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.
- (D) Legally nonconforming principal structures that do not meet the setback requirements of Section 152.530(F)(3) may be expanded laterally provided that:
 - i. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 5); and
 - ii. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

Figure 5. Expansion of Nonconforming Structure



(8) Notifications.

- (A) Amendments to this *section* and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070, Subp. 3, Items B – I.
- (B) Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, master plans, and PUDs, must be sent to the following entities at least ten (10) days prior to the hearing:
 - i. The Commissioner in a format prescribed by the DNR;
 - ii. National Park Service; and
 - iii. Where building heights exceed the height limits specified in Section 152.530(F)(2) as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.

- (C) Notice of final decisions for actions in Section 152.530(C)(7)(A), including findings of fact, must be sent to the Commissioner, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.
- (D) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100, Subp. 9, Item C.
- (E) The DNR will be notified at time of application submittal of master plans, PUDs, preliminary, and final plats.
- (9) **Accommodating disabilities.** Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by [Minnesota Rules, chapter 1341](#), must:
 - (A) Comply with Sections 152.530(F) to 152.530(L); or
 - (B) If Sections 152.530(F) to 152.530(L) cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:
 - i. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and
 - ii. Upon expiration of the permit, the ramp or other facilities must be removed.

D. MRCCA DISTRICTS

- (1) **Purpose.** The purpose of this Section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.
- (2) **District description and management purpose.** The MRCCA within the Brooklyn Park is divided into the following MRCCA Districts:
 - (A) Rural and Open Space (ROS).
 - i. Description. The ROS District is characterized by rural and low-density development patterns and land uses, and includes land that is riparian or visible from the river, as well as large, undeveloped tracts of high ecological and scenic value, floodplain, and undeveloped islands. Many primary conservation areas exist in the district.
 - ii. Management purpose. The ROS District must be managed to sustain and restore the rural and natural character of the corridor and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas.
 - (B) River Neighborhood (RN).
 - i. Description. The RN District is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.
 - ii. Management purpose. The RN District must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.
 - (C) Separated from River (SR).
 - i. Description. The SR District is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.
 - ii. Management purpose. The SR district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative

impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

- (3) **MRCCA district map.** The locations and boundaries of the MRCCA districts established by this section are shown on MRCCA Overlay District map which is incorporated herein by reference. The district boundary lines are intended to follow the centerlines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

E. SPECIAL LAND USE PROVISIONS

- (1) **Purpose.** To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.
- (2) **Underlying zoning.** Uses within the MRCCA are determined by underlying zoning, with additional provisions for the following land uses:
- (A) **Agricultural use.** Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.
 - (B) **Feedlots.** New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with [Minnesota Rules, chapter 7020](#).
 - (C) **Forestry.** Tree harvesting and biomass harvesting within woodlands, and associated reforestation, must be consistent with recommended practices in [Conserving Wooded Areas in Developing Communities: Best Management Practices in Minnesota](#).
 - (D) **Nonmetallic mining.** Nonmetallic mining requires a conditional use permit or interim use permit issued by the local government, subject to the following:
 - i. New nonmetallic mining is prohibited within the shore impact zone and bluff impact zone and within the required structure setback from the bluffline and OHWL;
 - ii. Processing machinery must be located consistent with setback standards for structures as provided in Section 152.530(F)(3);
 - iii. Only one barge loading area, which must be limited to the minimum size practicable, is permitted for each mining operation;
 - iv. New and, where practicable, existing nonmetallic mining operations must not be readily visible and must be screened by establishing and maintaining natural vegetation. The unscreened boundaries of nonmetallic mining areas are limited to only the barge loading area;
 - v. A site management plan must be developed by the operator and approved by the local government before new nonmetallic mining commences. Operations must be consistent with the site plan throughout the duration of operations at the site. The site management plan must:
 - (a) Describe how the site will be developed over time with an emphasis on minimizing environmental risk to public waters;
 - (b) Explain where staged reclamation may occur at certain points during the life of the site;
 - (c) Address dust, noise, storm water management, possible pollutant discharges, days and hours of operation, and duration of operations; and

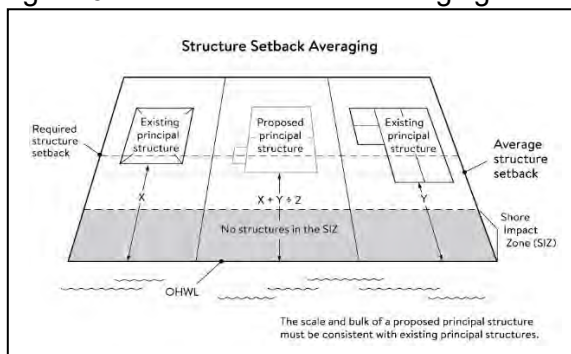
- (d) Describe any anticipated vegetation and topographic alterations outside the pit, and reclamation plans consistent with the stated end use for the land; and;
- vi. Existing and new nonmetallic mining operations must submit land reclamation plans to the local government compatible with the purposes of this ordinance.
- (E) **River-dependent uses.** River-dependent uses must comply with the following design standards:
 - i. Structures and parking areas, except shoreline facilities and private roads and conveyances serving river- dependent uses as provided in Section 152.530(L), must meet the dimensional and performance standards in this *section*, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;
 - ii. Shoreline facilities must comply with [Minnesota Rules, chapter 6115](#) and must:
 - (e) Be designed in a compact fashion to minimize the shoreline area affected; and
 - (f) Minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and
 - iii. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.
- (F) **Wireless communication towers.** Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:
 - i. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;
 - ii. The tower must not be located in a bluff or shore impact zone; and
 - iii. Placement of the tower must minimize impacts on public river corridor views.
 - iv. Comply with the general design standards in Section 152.530(H)(2).

F. STRUCTURE HEIGHT AND PLACEMENT AND LOT SIZE

- (1) **Purpose.** To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.
- (2) **Structure height.** Structures and facilities must comply with the following standards unless identified as exempt in Section 152.530(L).
 - (A) Structures and facilities must comply with the following standards unless identified as exempt in Section 152.530(L)
 - i. ROS District: 35 feet or lower.
 - ii. RN District: 35 feet.
 - iii. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OWHL of the opposite shore.
 - (B) Height is measured on the side of the structure facing the Mississippi River.
 - (C) In addition to the conditional use permit requirements of Section 152.530(C)(4), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:
 - i. Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;
 - ii. Determination that the proposed structure meets the required bluff and OHWL setbacks;
 - iii. Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:
 - (a) Placing the long axis of the building perpendicular to the river;

- (b) Stepping back of portions of the facade;
 - (c) Lowering the roof pitch or use of a flat roof;
 - (d) Using building materials or mitigation techniques that will blend in with the natural surroundings such as green roofs, green walls, or other green and brown building materials;
 - (e) Narrowing the profile of upper floors of the building; or
 - (f) Increasing the setbacks of the building from the Mississippi River or blufflines;
 - iv. Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and
 - v. Opportunities for creation or enhancement of public river corridor views.
- (3) Structure and impervious surface placement.
- (A) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 152.530(L).
 - (B) Structures and facilities must comply with the following OHWL setback provisions unless identified as exempt in Section 152.530(L).
 - i. ROS District: 200 feet from the Mississippi River and 150 feet from the Minnesota and Vermillion Rivers.
 - ii. RN District: 100 feet from the Mississippi River and 75 feet from the Rum and Vermillion Rivers.
 - iii. SR District: 75 feet from the Vermillion River.
 - (C) Structures and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 152.530(L):
 - i. ROS District: 100 feet.
 - ii. RN District: 40 feet.
 - iii. SR District: 40 feet.
 - (D) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, if the new structure's scale and bulk riverward or bluffward of the setbacks required under Sections 152.530(F)(3)(B) and 152.530(F)(3)(C) are consistent with adjoining development. See Figure 6.

Figure 6. Structure Setback Averaging



- (E) Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters.
- (4) Lot size and buildable area.
 - (A) The width of lots abutting the Mississippi River in the ROS District must be at least 200 feet, unless alternative design methods are used that provide greater protection of the riparian area.
 - (B) All new lots must have adequate buildable area to comply with the setback requirements of Sections 152.530(F)(3)(B) and 152.530(F)(3)(C) so as to not require variances to use the lots for their intended purpose.

G. PERFORMANCE STANDARDS FOR PRIVATE FACILITIES

- (1) **Purpose.** To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
- (2) **General design standards.** All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Sections 152.530(I) and 152.530(J).
- (3) **Private roads, driveways, and parking areas.** Except as provided in Section 152.530(L), private roads, driveways and parking areas must:
 - (A) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;
 - (B) Comply with structure setback requirements according to Section 152.530(F)(3); and
 - (C) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 152.530(L) and designed consistent with Section 152.530(H)(2).
- (4) Private water access and viewing facilities.
 - (A) Private access paths must be no more than:
 - i. Eight feet wide, if placed within the shore impact zone; and
 - ii. Four feet wide, if placed within the bluff impact zone.
 - (B) Private water access ramps must:
 - i. Comply with Minnesota Rules, chapters [6115.0210](#) and [6280.0250](#); and
 - ii. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.
 - (C) Design and construction of private stairways, lifts, and landings are subject to the following standards:
 - i. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by the City Manager;
 - ii. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area allowed for commercial properties and residential facilities held in common, if approved by the City Manager;
 - iii. Canopies or roofs are prohibited on stairways, lifts, or landings;
 - iv. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and
 - v. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 152.530(G)(4)(C)i-iv., and as provided under Section 152.530(C)(9).

(D) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:

- i. Not exceed 12 feet in height;
- ii. Not exceed 120 square feet in area; and
- iii. Be placed a minimum of 10 feet from the ordinary high water level.

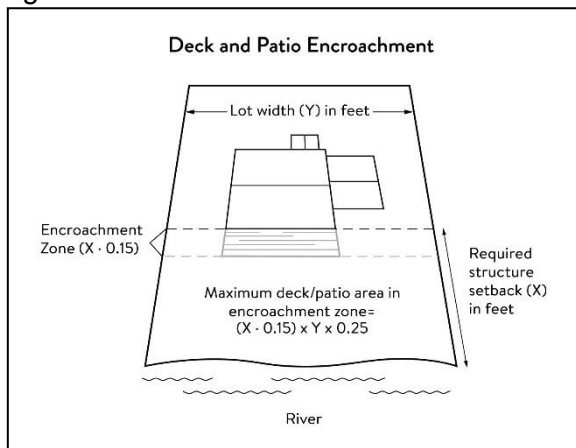
(5) **Decks and patios in setback areas.** Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Sections 152.530(I) and 152.530(J), provided that:

- (A) The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;
- (B) the area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and the 15 percent using the formula:

$$[\text{Required setback depth (feet)} \times 0.15 \times \text{lot width (feet)} \times 0.25 = \text{maximum total area}]$$

(C) The deck or patio does not extend into the bluff impact zone. See Figure 7.

Figure 7. Deck and Patio Encroachment



(6) directional signs.

(A) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:

- i. They must be consistent with Minnesota Statutes, section 86B.115.
- ii. Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.
- iii. Be no greater than ten feet in height and 32 square feet in surface area; and
- iv. If illuminated, the lighting must be shielded to prevent illumination out across the river or to the sky.

(7) Fences. Fences between principal structures and the river are allowed if fences are:

- (A) Not higher than six feet.
- (B) Not located within 40 feet of slopes greater than 12%.
- (C) Not located in the regulatory floodplain.

H. PERFORMANCE STANDARDS FOR PUBLIC FACILITIES

- (1) **Purpose.** To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan. Public facilities serve the public interest by providing public access to the Mississippi River corridor or require locations in or adjacent to the river corridor and therefore require some degree of flexibility.
- (2) **General design standards.** All public facilities must be designed and constructed to:
 - (A) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;
 - (B) Comply with the structure placement and height standards in Section 152.530(F), except as provided in Section 152.530(L);
 - (C) Be consistent with the vegetation management standards in Section 152.530(I) and the land alteration and storm water management standards in Section 152.530(J), including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, where applicable;
 - (D) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and
 - (E) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish and wildlife are not spawning or nesting.
- (3) **Right-of-way maintenance standards.** Right-of-way maintenance must comply with the following standards:
 - (A) Vegetation currently in a natural state must be maintained to the extent feasible;
 - (B) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right- of-way; and
 - (C) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.
- (4) **Crossings of public water or public land.** Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, sections 84.415 and 103G.245.
- (5) **Public utilities.** Public utilities must comply with the following standards:
 - (A) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter 216E, 216F, and 216G respectively; and
 - (B) If overhead placement is necessary, utility facility crossings must minimize visibility of the facility from the river and follow other existing right of ways as much as practicable.
 - (C) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.
 - (D) Wireless communication facilities, according to Section 152.530(E)(2)(F).
- (6) **Public transportation facilities.** Public transportation facilities shall comply with structure placement and height standards in Section 152.530(F). Where such facilities intersect or about two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:
 - (A) Providing scenic overlooks for motorists, bicyclists, and pedestrians;
 - (B) Providing safe pedestrian crossings and facilities along the river corridor;
 - (C) Providing access to the riverfront in public ownership; and
 - (D) Allowing for use of the land between the river and the transportation facility.

- (7) **Public recreational facilities.** Where such facilities intersect or abut two or more MRCCA districts, the least restrictive dimensional standards apply. Public transportation facilities must be designed and constructed to give priority to:
- (A) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards in Section 152.530(F), except as provided in Section 152.530(L);
 - (B) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.
 - (C) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in [Trail Planning, Design, and Development Guidelines](#).
 - i. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width.
 - ii. Trails, paths, and viewing areas must be designed and constructed to minimize:
 - (a) Visibility from the river;
 - (b) Visual impacts on public river corridor views; and
 - (c) Disturbance to and fragmentation of primary conservation areas.
 - (D) Public water access facilities must comply with the following requirements:
 - iii. Watercraft access ramps must comply with Minnesota Rules chapters [6115.0210](#) and [6280.0250](#); and
 - iv. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities.
 - (E) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views.
 - (F) Public stairways, lifts, and landings must be designed as provided in Section 152.530(G)(4)(C).

I. VEGETATION MANAGEMENT

- (1) **Purpose.** To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the MRCCA; and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.
- (2) **Applicability.** This section applies to:
 - (A) Shore impact zones;
 - (B) Areas within 50 feet of a wetland or natural drainage way;
 - (C) Bluff impact zones;
 - (D) Areas of native plant communities; and
 - (E) Significant existing vegetative stands identified in the MRCCA plan.
- (3) Activities allowed without a vegetation permit.
 - (A) Maintenance of existing lawns, landscaping and gardens;
 - (B) Removal of vegetation in emergency situations as determined by the City Manager;
 - (C) Right-of-way maintenance for public facilities meeting the standards Section 152.530(H)(3);
 - (D) Agricultural and forestry activities meeting the standards of Sections 152.530(E)(2)(A) and 152.530(E)(2)(C);
 - (E) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including:
 - i. Vegetation that is dead, diseased, dying, or hazardous;
 - ii. To prevent the spread of diseases or insect pests;
 - iii. Individual trees and shrubs; and
 - iv. Removal of invasive non-native species.
- (4) Activities allowed with a vegetation permit.
 - (A) The following intensive vegetation clearing activities are allowed with a vegetation permit:
 - i. Clearing of vegetation that is dead, diseased, dying, or hazardous;
 - ii. Clearing to prevent the spread of diseases or insect pests;
 - iii. Clearing to remove invasive non-native species.
 - iv. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City Manager.
 - v. The minimum necessary for development that is allowed with a building permit or as an exemption under Section 152.530(L).
 - (B) Conditions of vegetation permit approval:
 - i. Development is sited to minimize removal of or disturbance to natural vegetation;
 - ii. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer or (*insert name of resource agency, if someone other than professional engineer is desired*);
 - iii. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views;
 - iv. Any native plant communities removed are replaced with vegetation that provides equivalent biological and ecological functions consistent with an approved vegetation restoration plan as provided in Section 152.530(I)(6)(B). If replaced, priorities for restoration are stabilization of erodible soils, restoration or enhancement of shoreline vegetation, and revegetation of bluffs or steep slopes visible from the river;
 - v. All other vegetation removed is restored with natural vegetation to the greatest extent practicable consistent with an approved vegetation restoration plan as provided in Section 152.530(I)(6)(B). Priorities for replacement are the same as under Section 152.530(I)(4)(B)iv.;

- vi. Any disturbance of highly erodible soils is replanted with deep-rooted vegetation with a high stem density;
- vii. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time;
- viii. Areas of vegetation restoration priorities identified in the MRCCA plan are restored, if applicable; and
- ix. Any other condition determined necessary to achieve the purpose of this section.

(5) **Prohibited activities.** All other intensive vegetation clearing is prohibited.

(6) Vegetation restoration plan.

(A) Development of a vegetation restoration plan and reestablishment of natural vegetation is required:

- i. As a condition of a vegetation permit issued under Section 152.530(I)(4)(B)iv and 152.530(I)(4)(B)v;
- ii. Upon failure to comply with any provisions in this section; or
- iii. As part of the planning process for subdivisions as provided in Section 152.530(K).

(B) The vegetation restoration plan must satisfy the application submittal requirements in 152.530(C)(6), and:

- i. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines;
- ii. Be prepared by a qualified individual; and
- iii. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

(C) A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied.

J. LAND ALTERATION STANDARDS AND STORMWATER MANAGEMENT

(1) **Purpose.** To establish standards that protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and maintain stability of bluffs, shorelines, and other areas prone to erosion.

(2) Land alteration permit.

(A) Within the bluff impact zone, land alteration is prohibited, except for the following, which are allowed by permit.

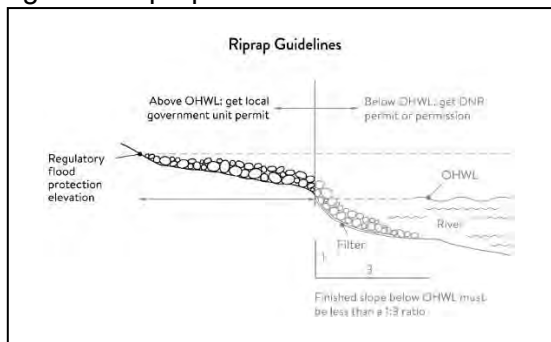
- i. Erosion control consistent with Section 152.530(J)(6);
- ii. The minimum necessary for development that is allowed as an exception under Section 152.530(L); and
- iii. Repair and maintenance of existing buildings and facilities.

(B) Within the water quality impact zone, land alteration that involves more than ten cubic yards of material or affects an area greater than 1,000 square feet requires a permit.

(3) Rock riprap, retaining walls, and other erosion control structures.

(A) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, chapters 6115.0215, subpart 4, item E, and 6115.0216, subpart 2. Work must not proceed until approved by the commissioner. See Figure 8.

Figure 8. Riprap Guidelines



(B) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 152.530(K)(6) provided that:

- i. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
- ii. The structures are used only to correct an established erosion problem as determined by the City Manager.
- iii. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:
 - (a) Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and
 - (b) Riprap must not exceed the height of the regulatory flood protection elevation.

(C) Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration under Section 152.530(J)(2).

(4) Stormwater management.

(A) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

- i. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;
- ii. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;
- iii. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and
- iv. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

- (B) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in Section 152.530(L), or fully reconstructs existing impervious surface of more than 1 acre requires a storm water permit or approved storm water plan. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.
- (C) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.
- (5) **Development on steep slopes.** Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:
 - (A) The development can be accomplished without increasing erosion or storm water runoff;
 - (B) The soil types and geology are suitable for the proposed development; and
 - (C) Vegetation is managed according to the requirements of Section 152.530(I).
- (6) Conditions of land alteration permit approval.
 - (A) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual;
 - (B) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;
 - (C) Construction activity is phased when possible;
 - (D) All erosion and sediment controls are installed before starting any land disturbance activity;
 - (E) Erosion and sediment controls are maintained to ensure effective operation;
 - (F) The proposed work is consistent with the vegetation standards in Section 152.530(I); and
 - (G) Best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001.
- (7) Compliance with other plans and programs. All development must:
 - (A) Be consistent with Minnesota Statutes, chapter 103B, and local water management plans completed under chapter 8410;
 - (B) Meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420; and
 - (C) Meet or exceed the floodplain management standards under Minnesota Rules, chapter 6120. 5000 – 6120.6200

K. SUBDIVISION AND LAND DEVELOPMENT STANDARDS

- (1) Purpose.
 - (A) To protect and enhance the natural and scenic values of the MRCCA during development or redevelopment of the remaining large sites
 - (B) To establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and
 - (C) To encourage restoration of natural vegetation during development or redevelopment of large sites where restoration opportunities have been identified in MRCCA Plans.
- (2) Applicability.
 - (A) The design standards in this section apply to subdivisions, planned unit developments and master-planned development and redevelopment of land involving ten or more acres for contiguous parcels that abut the Mississippi River and 20 or more acres for all other parcels, including smaller individual sites within the following developments that are part of a common plan of development that may be constructed at different times:
 - i. Subdivisions;
 - ii. Planned unit developments; and
 - iii. Master-planned development and redevelopment of land.
 - (B) The following activities are exempt from the requirements of this section:
 - i. Minor subdivisions consisting of three or fewer lots;

- ii. Minor boundary line corrections;
 - iii. Resolutions of encroachments;
 - iv. Additions to existing lots of record;
 - v. Placement of essential services; and
 - vi. Activities involving river-dependent commercial and industrial uses.
- (3) **Application materials.** Project information listed in Section 3.6 must be submitted for all proposed developments.
- (4) Design standards.
- (A) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:
 - i. CA-ROS District: 50%;
 - ii. CA-RN District: 20%;
 - iii. CA-RTC, CA-UM, and CA-UC Districts: 10%; and
 - iv. CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a regional park or trail system, otherwise no requirement.
 - (B) If the primary conservation areas exceed the amounts specified in Section 152.530(K)(4)(A), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.
 - (C) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 152.530(I)(6)(B).
 - (D) If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to Section 152.530(I)(6)(B) and the area must be set aside and designated as protected open space.
 - (E) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.
 - (F) Land dedicated under 151.061 Public Sites and Open Space and Park Land Dedication for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.
 - (G) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.
- (5) Permanent protection of designated open space.
- (A) Designated open space areas must be protected through one or more of the following methods:
 - i. Public acquisition by a government entity for conservation purposes;
 - ii. A permanent conservation easement, as provided in Minnesota Statutes, chapter 84C;
 - iii. A deed restriction; and
 - iv. Other arrangements that achieve an equivalent degree of protection.
 - (B) Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

L. EXEMPTIONS

- (1) **Purpose.** To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in [Minnesota Statutes 116G.15 Subd. 4.](#)
- (2) **Applicability.**
- (A) Uses and activities not specifically exempted must comply with this section. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 9 and 10.
- (B) Uses and activities in Section 152.530(L)(3) are categorized as:
- Permitted - P.** This means that the use or activity is allowed;
 - Conditional - C** This means that the use or activity is allowed only if no alternatives exist, as a conditional use; and
 - Permitted with Additional Standards - S.** This means that a use or activity is not exempt and must meet the standards of this ordinance.
 - Not Permitted – NP.** The use is prohibited.
- (3) Use and activity exemptions classification.
- (A) General uses and activities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers)	S	P	S	S	Structure design and placement must minimize interference with public river corridor views.
Barns, silos, and farm structures	S	P	S	S	
Bridges and bridge approach roadways	P	P	P	C	Section 152.530(H)
Wireless communication towers	NP	NP	S	S	Section 152.530(E)(2)(F)
Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Chimneys, church spires, flag poles, public monuments, and mechanical stacks and equipment	S	P	S	S	
Historic properties and contributing properties in historic districts	P	P	P	P	Exemptions do not apply to additions or site alterations

(B) Public utilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Electrical power facilities	P	P	P	C	Section 152.530(H)
Essential services (other than storm water facilities)	P	P	P	C	Section 152.530(H)
Storm water facilities	P	S	P	C	Section 152.530(J)
Wastewater treatment	P	S	P	NS	Section 152.530(H)
Public transportation facilities	P	S	C	C	Section 152.530(H)

(C) Public recreational facilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Accessory structures, such as monuments, flagpoles, light standards, and similar park features	P	P	C	C	Section 152.530(H); within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures.
Picnic shelters and other open-sided structures	P	S	C	S	Section 152.530(H)
Parking lots	C	S	C	C	Section 152.530(H); within BIZ, only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff
Roads and driveways	C	S	C	C	Section 152.530(H)
Natural-surfaced trails, access paths, and viewing areas	P	S	P	P	Section 152.530(H)
Hard-surfaced trails and viewing platforms	P	S	P	C	Section 152.530(H); within BIZ, only on slopes averaging less than 30%
Water access ramps	P	S	P	C	Section 152.530(H)
Public signs and kiosks for interpretive or directional purposes	P	S	P	C	Section 152.530(H)

(D) River-dependent uses.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Shoreline facilities	P	S ¹	P	C	Section 152.530(E)(2)(E). Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility

¹ River-dependent commercial, industrial, and utility structures are exempt from height limits only if greater height is required for operational reasons.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Private roads and conveyance structures serving river-dependent uses	P	S ¹	P	C)	Section 152.530(E)(2)(E)

(E) Private residential and commercial water access and use facilities.

Use or Activity	Set backs	Height Limits	SIZ	BIZ	Applicable standards with which the use or activity must comply
Private roads serving 3 or more lots	C	S	S	C	Section 152.530(I); in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas
Access paths	P	S	P	P	Section 152.530(I)
Water access ramps	P	S	P	S	Section 152.530(I)
Stairways, lifts, and landings	P	S	P	P	Section 152.530(I)
Water-oriented accessory structures	P	S	P	S	Section 152.530(I)
Patios and decks	P	S	N	S	Section 152.530(I)(5)
Directional signs for watercraft (private)	P	S	P	S	Section 152.530(I)(6); exemption does not apply to off-premise advertising signs
Temporary storage of docks, boats, and other equipment during the winter months	P	S	P	S	
Erosion control structures, such as rock riprap and retaining walls	P	S	P	C	Sections 152.530(J)(3), 152.530(J)(5) and 152.530(J)(6)
Flood control structures	P	S	P	C	Section 152.530(J)

From: [Saunders-Pearce, Wes \(DNR\)](#)
To: [Paul Mogush](#)
Cc: [Erin McDermott](#)
Subject: RE: City Council Presentation
Date: Monday, July 15, 2024 1:20:44 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image009.png](#)

Paul,

Please see our responses below in red. Thanks for the opportunity to provide this feedback and technical assistance as you navigate the July 22 council meeting for final adoption.

Wes Saunders-Pearce, CFM

North Metro Area Hydrologist | Ecological and Water Resources
Anoka & Hennepin Counties

Minnesota Department of Natural Resources

1200 Warner Road
Saint Paul, MN 55106
Phone: 651-259-5822



From: Paul Mogush <Paul.Mogush@brooklynpark.org>
Sent: Wednesday, July 10, 2024 4:21 PM
To: Saunders-Pearce, Wes (DNR) <Wes.Saunders-Pearce@state.mn.us>
Cc: Erin McDermott <Erin.McDermott@brooklynpark.org>
Subject: RE: City Council Presentation

Wes,

Thanks for your reply. There are a few questions that property owners and councilmembers have voiced, and you have been helpful in answering these in conversations with Erin. I think as staff we are pretty clear on the answers to all of these questions, but it would help our council to see the answers in writing directly from DNR staff in the absence of an in-person opportunity to ask them at a council meeting. Could you prepare responses to these in advance of our 7/22 council meeting?

- Can the City permit lateral expansion of existing non-conforming structures within the Shoreline Impact Zone (SIZ) or Bluff Impact Zone (BIZ) without the requirement of a variance?
As long as the expansion does not extend into the Shore Impact Zone or Bluff Impact Zone, the

city can permit the lateral expansion of a nonconforming structure. If the expansion extends into the SIZ or BIZ, a variance is needed. This provision allows MRCCA cities flexibility to allow nonconforming structure expansions. Without the provision allowing lateral expansions, state law requires a variance.

- Can the additional variance criteria above the required three-factor test be removed? These additional criteria are intended to provide a higher level of scrutiny to protect the resources in a designated critical area. All other cities and towns in the critical area have adopted the additional variance criteria. If the city wants to remove these criteria, or any other rule provision, it must do so through the flexibility provisions in the rules (6106.0070 Subp. 6). Requesting flexibility must be supported by a strong rationale, including supporting data, and include input from other local governments, including those across the river, and propose alternative standards to compensate for the requested deviation. That said, given Brooklyn Park is late in adoption of this ordinance, we expect the city to proceed with adopting it's conditionally approved ordinance before contemplating any revisions.
- Are there any instances where a Conditional Use Permit could be the vehicle for relief from ordinance rather than a variance? The MRCCA ordinance specifies what uses require a conditional use permit, otherwise, the city's underlying zoning controls uses. Under state law, deviation from the official controls requires a variance.
- Does the fact that Brooklyn Park is late in adoption of this ordinance impact grant opportunities for the City or property owners? We are not aware of the specific details and requirements of the various grants available to the city or property owners.
- What special considerations were afforded to the city of South St. Paul for flexibility in their MRCCA Ordinance, and would the DRN consider allowing Brooklyn Park similar considerations? The development pattern on a short stretch of South Robert Street in the City of South St. Paul existed prior to the MRCCA designation. In this area very small lots were created in the late 19th and early 20th centuries. These lots are wedged between significant bluff features. The historical development pattern and topography in this area of South St. Paul are very unique circumstances within the MRCCA. The flexibility provisions in the MRCCA rules were designed to provide flexibility to these types of unique circumstances. As such, the MRCCA standards were modified for South St. Paul to allow development in these areas consistent with historical patterns as long as additional measures were taken to ensure that primary conservation areas were protected, and that slope stability wasn't compromised by development. South St. Paul is the only city to request flexibility. If the City of Brooklyn Park has unique development and/or topographical circumstances compared to other cities in the MRCCA, it should demonstrate those by submitted a detailed request for flexibility under the flexibility provisions. That said, given Brooklyn Park is late in adoption of this ordinance, we expect the city to proceed with adopting it's conditionally approved ordinance before contemplating any revisions.

Paul Mogush *(he/him/his)*

Planning Director
763-493-8051



5200 85th Avenue N, Brooklyn Park, MN 55443

From: Saunders-Pearce, Wes (DNR) <Wes.Saunders-Pearce@state.mn.us>

Sent: Wednesday, July 3, 2024 11:17 AM

To: Paul Mogush <Paul.Mogush@brooklynpark.org>

Cc: Erin McDermott <Erin.McDermott@brooklynpark.org>

Subject: RE: City Council Presentation

Hi Paul,

It's good to hear the ordinance is set for final adoption later this month! I recall speaking with Erin after the open house about comments and questions received from several residents about which she wanted clarification. The topic seemed to center on nonconforming structures, and indirectly, how DNR might perceive MRCCA variance applications. As you know, DNR cannot speculate about hypothetical situations involving potential land use decisions.

Did the council have specific questions about the MRCCA program? We can certainly provide you written guidance or feedback. We also have fact sheets available about the MRCCA program as well as about variance decisions in shorelands. Please let me know if you would like to receive those fact sheets.

We have full confidence in the city's conditionally approved draft DNR ordinance as well as your staff's ability to implement the program effectively. Although it's taken awhile to get to this point, we appreciate your efforts to bring the city into compliance with the updated MRCCA rules.

Wes Saunders-Pearce, CFM

North Metro Area Hydrologist | Ecological and Water Resources
Anoka & Hennepin Counties

Minnesota Department of Natural Resources

1200 Warner Road
Saint Paul, MN 55106
Phone: 651-259-5822



From: Paul Mogush <Paul.Mogush@brooklynpark.org>
Sent: Wednesday, June 26, 2024 2:42 PM
To: Saunders-Pearce, Wes (DNR) <Wes.Saunders-Pearce@state.mn.us>
Cc: Erin McDermott <Erin.McDermott@brooklynpark.org>
Subject: City Council Presentation

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Wes,

Monday night we brought our MRCCA ordinance to the City Council as part of a much larger package of zoning changes. This was a first reading of the ordinance changes, with final approval scheduled for July 22. As a result of some lingering concerns from a couple of riverfront property owners, the council asked if DNR staff could come in and do a brief presentation on the MRCCA ordinance before they take their final vote on the full zoning package. My sense is that they would like to hear directly from the DNR on the flexibility requests that Erin had passed along to you after the open house we conducted in April.

Would you or someone else from the DNR be available to do a brief presentation the evening of July 22?

Paul Mogush *(he/him/his)*

Planning Director
763-493-8051

Brooklyn Park 
Unique. United. Undiscovered.



5200 85th Avenue N, Brooklyn Park, MN 55443

City of Brooklyn Park Request for Council Action

Agenda Item:	7.1	Meeting Date:	July 29, 2024
Agenda Section:	General Action Items	Originating Department:	Community Development
Resolution:	N/A		
Ordinance:	N/A		
Attachments:	1	Prepared By:	Paul Mogush, Planning Director
Item:	Comment Letter on METRO Blue Line Extension Supplemental Draft Environmental Impact Statement (SDEIS)		

City Manager's Proposed Action:

MOTION _____, SECOND _____, TO AUTHORIZE SUBMITTAL OF THE ATTACHED LETTER COMMENTING ON THE METRO BLUE LINE EXTENSION SUPPLEMENTAL DRAFT ENVIRONMENTAL IMPACT STATEMENT.

Overview:

In June, the Metropolitan Council released the METRO Blue Line Extension Supplemental Draft Environmental Impact Statement (SDEIS), which fulfills the project sponsor's obligation under Federal law to document the potential social, economic, and environmental impacts of the project, along with proposed mitigation measures. This updated environmental document reflects the route modification that was approved last year.

The SDEIS can be found here:

<https://metro council.org/Transportation/Projects/Light-Rail-Projects/METRO-Blue-Line-Extension/Environmental/Supplemental-Draft-EIS.aspx>

Staff is requesting that the Council authorize submittal of the attached letter commenting on the SDEIS.

Primary Issues/Alternatives to Consider: N/A

Budgetary/Fiscal Issues: N/A

Attachments:

7.1A COMMENT LETTER



City of Brooklyn Park
City Hall
5200 85th Ave. N.
Brooklyn Park, MN 55443
763-424-8000
www.brooklynpark.org

August 5, 2024

Chair Charlie Zelle
Metropolitan Council
390 Robert Street North
Saint Paul, MN 55101

RE: City of Brooklyn Park comments on the METRO Blue Line Extension Supplemental Draft Environmental Impact Statement (SDEIS)

Dear Chair Zelle:

Thank you for the opportunity to review and comment on the METRO Blue Line Extension Supplemental Draft Environmental Impact Statement (SDEIS). The release of this document is an important milestone, documenting the anticipated benefits and impacts of the reconfigured project, along with proposed mitigation measures. Because the updated project alignment in Brooklyn Park is so similar to the previously-documented project, the content of the SDEIS generally matches our expectations. However, as we move closer to the municipal consent process we do have a few comments that we would like to communicate.

Anti-displacement

The SDEIS makes it clear that the project will have a greater impact on Environmental Justice communities than the population as a whole. Given that context, it is especially important that strategies for ensuring shared benefit are a core commitment of the project.

The SDEIS documents the recommendations of the Anti-Displacement Working Group, indicating that additional work is necessary to refine the working group recommendations into mitigation measures for inclusion in the forthcoming Supplemental Final EIS (Section 7.4.2.6, Indirect and Cumulative Effects). While ideally this work would be complete and mitigation measures proposed in this SDEIS document, we look forward to working with Metro Transit, Hennepin County, the other corridor cities, and the Anti-Displacement Community Prosperity Board to ensure that the project makes a strong commitment to these strategies.

East-West Bus Connections

The City of Brooklyn Park has previously communicated the importance of identifying and implementing east-west bus routes that connect to each of the five planned stations in our city. We understand that Metro Transit will conduct a future study to plan connecting bus routes, but we believe there is some urgency to complete this work so that final engineering can take into account the facilities necessary to serve bus riders. Section 3.1 of the SDEIS, which analyzes travel demand modeling and ridership forecasts for the project, assumes that the future stations will be served only by existing bus routes in Brooklyn Park. We reiterate here our request that opening day connecting bus routes be planned earlier in the process.

Design

City staff have been working closely with the project office on design details emanating from the 2022 route modification. Following are design-related comments in the context of the SDEIS:

63rd Avenue Station – The SDEIS is based on conceptual engineering drawings from September 2023. Since that time, the project office has refined the design at the 63rd Avenue Station to improve pedestrian safety at the intersection. Those improvements are reflected on the updated plans released in March 2024. The Final Supplemental EIS should include those improvements as well, including documentation of the additional benefit to pedestrian safety.

Oak Grove Station Area – Earlier in the design process, MNDOT and the project office committed to including accommodations for an east-west street in the northwest quadrant of West Broadway and Highway 610 to serve new development, known as the “fourth leg.” This connection is critical to realizing the vision of the station area plan for high quality mixed-use development, and it must be included in the final project design and Final Supplemental EIS. City staff are also working with the project office on rethinking the siting of the park and ride to better facilitate transit oriented development. This likely does not impact the environmental documentation, but final plans should reflect this change.

The City of Brooklyn Park continues to prepare for opening day of the Blue Line Extension and is making proactive investments to ensure that the project contributes to the prosperity of our community and the northwest area of the region. We appreciate the partnership of the Metropolitan Council and Hennepin County and look forward to the next steps in the process.

Sincerely,

Hollies Winston
Mayor of Brooklyn Park