

Council Study Session
City Hall Council Chambers
July 10, 2023

AGENDA



-
- 1. City Council Discussion of Agenda Items and Questions - 6:00 p.m.**
 - 2. Miscellaneous**
 - 3. Discussion of Work Session Agenda Item as Time Permits**
 - 4. Adjourn**

**CITY COUNCIL
MEETING**

City Hall Council Chambers
July 10, 2023

AGENDA



1. Informal Open Forum with City Council - 6:45 p.m.

This is an opportunity for the public to address the City Council on items that are not on the agenda. It is limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, air personality grievances, make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with the presenter. Questions from the Council will be for clarification purposes only. It will not be used as a time for problem-solving or reacting to the comments made but, rather, for hearing the presenter for informational purposes only.

The first call will be for those that have notified the Clerk that they would like to speak during the open forum, and then ask if anyone connected to this meeting would like to speak. When called upon, please indicate your name and then proceed. Please be sure to state your name and address before speaking.

2. Invocation - Kragness - 7 p.m.

3. Call to Order Regular Business Meeting

Attendees please turn off cell phones and pages during the meeting. A copy of the full meeting packet is available in the binder at the entrance to the Council Chambers.

4. Roll Call

5. Pledge of Allegiance

6. Approval of Agenda and Consent Agenda

These items are considered to be routine by the City Council and will be enacted by one motion. There isn't a separate discussion for these items unless a Councilmember so requests, then it is moved to the end of the Council Consideration Items.

- a. Approval of Licenses
 - *motion to approve the licenses as presented.*
- b. Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota
 - *Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.*

7. Presentations/Proclamations/Recognitions/Donations

- a. Presentation of Crime Statistics Dashboard
 - *motion to accept the demonstration of the Crime Statistic dashboard that will be added to the city's website.*

8. Public Hearings

- a. An Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of a Cannabis Business Within the City of Brooklyn Center
 - *motion to open the public hearing*
 - *take public comment;*
 - *close the public hearing;*
 - *motion to adopt an interim ordinance authorizing a study and imposing a moratorium on the operation of a cannabis business within the City of Brooklyn Center*

9. Planning Commission Items

10. Council Consideration Items

- a. Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) and Predevelopment Funding and Authorizing Application for Grant Funds for Resurrecting Faith World Ministries Conference/Event Center
 - *Motion to approve the resolution identifying the need for Livable Communities Demonstration Account and Pre-Development grants and authorizing an application for grants funds.*
- b. Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) Transit-Oriented Development Funding and Authorizing an Applications for Grant Funds for African Career, Education and Resource (ACER) Innovation and Catalyst Center (ICC)
 - *Motion to approve the resolution identifying the need for Livable Communities Demonstration Account Transit-Oriented development funding and authorizing an application for grants funds.*

11. Council Report

12. Adjournment

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Shannon Pettit, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- motion to approve the licenses as presented.

Background:

The following businesses/persons have applied for City licenses as noted. Each business/person has fulfilled the requirements of the City Ordinance governing respective licenses, submitted appropriate applications, and paid proper fees. Applicants for rental dwelling licenses are in compliance with Chapter 12 of the City Code of Ordinances, unless comments are noted below the property address on the attached rental report.

Mechanical

Advanced Heating And Air Conditioning
10550 County Rd 81, Maple Grove 55369

Air Mechanical
16411 Aberdeen St NE, Ham Lake 55304

Appliance Connections Inc
12850 Chestnut Blvd, Shakopee 55379

Genz-Ryan Plbg & Htg Co
2200 W Hwy 13, Burnsville 55337

Midwest Maintenance & Mech
750 Pennsylvania Ave S, Golden Valley 55426

Quality Heating & Air Services
12912 Ventura Court, STE #21, Shakopee 55379

Residential Heating and Air, Inc.
7454 Washington Ave S, Eden Prairie 55344

Sunburst Heating & A/C
1556 Oakways, Wayzata 55391

Sign Hanger's License

Topline Advertising
11775 Justen Circle, #A, Maple Grove 55369

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Safe, Secure, Stable Community, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Rental Criteria	6/20/2023	Backup Material
Rentals	7/3/2023	Backup Material

Property Code and Nuisance Violations Criteria		
License Category (Based on Property Code Only)	Number of Units	Property Code Violations per Inspected Unit
Type I – 3 Year	1-2 units	0-2
	3+ units	0-0.75
Type II – 2 Year	1-2 units	Greater than 2 but not more than 5
	3+ units	Greater than 0.75 but not more than 1.5
Type III – 1 Year	1-2 units	Greater than 5 but not more than 9
	3+ units	Greater than 1.5 but not more than 3
Type IV – 6 Months	1-2 units	Greater than 9
	3+ units	Greater than 3

b. Police Service Calls.

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are “Family or household members” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of “Domestic Abuse” as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

License Category	Number of Units	Validated Calls for Disorderly Conduct Service & Part I Crimes (Calls Per Unit/Year)
No Category Impact	1-2	0-1
	3-4 units	0-0.25
	5 or more units	0-0.35
Decrease 1 Category	1-2	Greater than 1 but not more than 3
	3-4 units	Greater than 0.25 but not more than 1
	5 or more units	Greater than 0.35 but not more than 0.50
Decrease 2 Categories	1-2	Greater than 3
	3-4 units	Greater than 1
	5 or more units	Greater than 0.50

Rental Licenses for Council Approval 7.10.23

Location Address	License Subtype	Renewal/Initial	Owner	Property Code Violations	License Type	Police CFS*	Final License Type**	Previous License Type***	Consecutive Type IV's
6135 Camden Ave N	Single	Initial	PRIME PARTNERS LLC	4	Type II	N/A	Type II	N/A	N/A
7207 France Ave N	Single	Initial	P KIBAARA & J KIBAARA	10	Type IV	N/A	Type IV	N/A	0
1107 57th Ave N	Multiple Family 1 Bldg 4 Units	Renewal	Alexander Irwin Met Requirements	25 = 6.25 per unit	Type IV	0	Type IV	Type IV	3
1200 67th Ave N	Multiple Family 1 Bldg 18 Units	Renewal	T H Morrow & R J Morrow	51 = 2.83 per unit	Type III	0	Type III	Type II	N/A
2802 Northway Dr	Multiple Family 21 Bldgs 252 Units	Renewal	G B Homes Llc	332 = 1.32 per unit	Type II	10/1/22 - Disturbance 9/10/22 - Aggravated Assault 4/29/23 - Weapons 9/30/22 - Robbery 1/15/23 - Robbery 5 calls = 0.02 per unit no affect on license	Type II	Type I	N/A
5211 Xerxes Ave N	Multiple Family 2 Bldgs 24 Units	Renewal	BMW Holdings Did not meet requirements	52 = 2.17 per unit	Type III	0	Type IV	Type IV	5
5523 Lyndale Ave N	Two Family	Renewal	Brett R Hildreth	2	Type I	0	Type I	Type I	N/A
3512 Woodbine La	Single	Renewal	Hpa Borrower 2018-1 Ms Llc Did not meet requirements	3	Type II	0	Type IV	Type IV	3
3813 61st Ave N	Single	Renewal	Deluxe Properties Llc Did not meet requirements	22	Type IV	0	Type IV	Type IV	6
4707 Eleanor La	Single	Renewal	Cosco Property 4 Llc Met Requirements	4	Type II	0	Type II	Type III	N/A
5431 Logan Ave N	Single	Renewal	Cosco Property 3 Llc	11	Type IV	0	Type IV	Type II	0
5833 Pearson Dr.	Single	Renewal	Kou M Farngalo	9	Type III	0	Type III	Type II	N/A
6724 France Ave N	Single	Renewal	Jessica J Stoll Met Requirements	8	Type III	0	Type III	Type IV	N/A
6908 Unity Ave N	Single	Renewal	Sun Llc Met Requirements	13	Type IV	0	Type IV	Type IV	2
7024 Oliver Cir	Single	Renewal	Juliana Koe & Warren T Terry	3	Type II	0	Type II	Type II	N/A

7141 Newton Ave N	Single	Renewal	lh2 Property Illinois Lp	15	Type IV	0	Type IV	Type I	0
7230 Girard Ave N	Single	Renewal	QZ FUNDING LLC Did not meet requirements	2	Type I	0	Type III	Type III	N/A

*CFS = Calls for service for renewal licenses only (Initial licenses are not applicable to calls for service, and will be listed as N/A

**License Type being issued

***Initial licenses will not show a Type I = 3 Year, Type II = 2 Year, Type III = 1 Year, Type IV = 6 months

All properties are current on City utilities and property taxes

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: Liz Heyman Public Works Director

BY: Cynthia Majors, Public Works Admin Assistant

SUBJECT: Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota

Requested Council Action:

- Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.

Background:

The attached resolution represents the official City Council action required to expedite removal of diseased trees that were recently marked by the City Tree Inspector. The City has maintained a policy of removing and properly disposing of diseased trees in order to prevent tree diseases from spreading throughout the community. The removal of diseased trees is defined in City Ordinance Chapter 20-301 to 20-306. Although the City has historically focused on Dutch Elm disease, other transmissible diseases and infestations are addressed as well.

Property owners are given the opportunity to remove the diseased tree on their own or enter into an agreement to allow the City to remove the diseased tree. Where an agreement with the property owner is executed, a minimal administrative charge of \$50 is applied to the costs associated with the tree removal.

After a diseased tree is declared a public nuisance by the City Council, another Compliance Notice will be provided to the property owner allowing additional time, at least five (5) days, for voluntary correction, again providing an option for an agreement with the City. If the property owner does not correct the violation or enter into an agreement, the City will remove the diseased tree. An administrative abatement service charge will be imposed based on the cost of the abatement, with a minimum charge of \$150.

Budget Issues:

The City's share of the cost of removal for diseased trees within the public right-of-way and on City property is included in the 2023 budget under the Public Works Forestry operating budget. The cost of removal for diseased trees located on private property is the responsibility of the respective property owner, and if unpaid, is specially assessed to the property.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Safe, Secure, Stable Community

ATTACHMENTS:

Description	Upload Date	Type
Diseased Tree Memo	6/29/2023	Cover Memo
Diseased Tree Resolution	6/29/2023	Resolution Letter

COUNCIL ITEM MEMORANDUM

DATE: July 10, 2023

TO: Dr. Reggie Edwards, City Manager

THROUGH: Liz Heyman, Public Works Director

FROM: Cynthia Majors, Public Works Admin Technician

SUBJECT: Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota

Recommendation:

- Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.

Background:

The attached resolution represents the official City Council action required to expedite removal of diseased trees that were recently marked by the City Tree Inspector. The City has maintained a policy of removing and properly disposing of diseased trees in order to prevent tree diseases from spreading throughout the community. The removal of diseased trees is defined in City Ordinance Chapter 20-301 to 20-306. Although the City has historically focused on Dutch Elm disease, other transmissible diseases and infestations are addressed as well.

Property owners are given the opportunity to remove the diseased tree on their own or enter into an agreement to allow the City to remove the diseased tree. Where an agreement with the property owner is executed, a minimal administrative charge of \$50 is applied to the costs associated with the tree removal.

After a diseased tree is declared a public nuisance by the City Council, another Compliance Notice will be provided to the property owner allowing additional time, at least five (5) days, for voluntary correction, again providing an option for an agreement with the City. If the property owner does not correct the violation or enter into an agreement, the City will remove the diseased tree. An administrative abatement service charge will be imposed based on the cost of the abatement, with a minimum charge of \$150.

Budget Issues:

The City's share of the cost of removal for diseased trees within the public right-of-way and on City property is included in the 2023 budget under the Public Works Forestry operating budget. The cost of removal for diseased trees located on private property is the responsibility of the respective property owner, and if unpaid, is specially assessed to the property.

Strategic Priorities:

- Safe, Secure, Stable Community

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DECLARING A PUBLIC NUISANCE AND ORDERING THE REMOVAL OF DISEASED TREES AT CERTAIN PROPERTIES IN BROOKLYN CENTER, MINNESOTA

WHEREAS, Brooklyn Center City Code Section 20-301 declares any diseased tree a public nuisance and provides for abatement by the City if not corrected by the property owner; and;

WHEREAS, removal of diseased trees and abatement of the public nuisances is necessary to prevent the spread of tree diseases and to protect the environmental quality and desirability of neighborhoods; and

WHEREAS, a Notice to Abate Nuisance and a Diseased Tree Removal Agreement has been issued to the owners of certain properties in the City allowing the owners twenty (20) days to remove diseased trees on the owners' property; and

WHEREAS, the City can expedite the removal of these diseased trees by declaring them a public nuisance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that:

1. The diseased tree at the following address is hereby declared to be a public nuisance.

Property Address	Tree Type	Tree Number
5420 Fremont Ave N	Ash	5
5401 Penn Ave N	Ash	6
5808 Knox Ave N	Ash	7
3612 53 rd Ave N	Ash	9
7142 France Ave N	Ash	10

2. After twenty (20) days from the date of the initial notice, the property owner(s) will receive a second written notice providing five (5) business days in which to contest the determination of the City Council by requesting, in writing, a hearing. Said request shall be filed with the City Clerk.
3. After five (5) days, if the property owner fails to request a hearing, the tree(s) shall be removed by the City. The cost of abatement shall be recorded and become the personal responsibility of the owner of record. If unpaid, the costs shall be specially assessed to the property in accordance with City codes and Minnesota Statutes Chapter 429.

RESOLUTION NO. _____

January 10, 2022

Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Kellace McDaniel, Police Chief

SUBJECT: Presentation of Crime Statistics Dashboard

Requested Council Action:

- motion to accept the demonstration of the Crime Statistic dashboard that will be added to the city's website.

Background:

Commander Garrett Flesland and the City's Crime Analyst Nate Pogorely will demonstrate the new Crime Statistics dashboard that will be added to the city's website.

Budget Issues:

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values:

Enhanced Community Image, Safe, Secure, Stable Community, Operational Excellence

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Jason Hill, City Attorney

SUBJECT: An Interim Ordinance Authorizing a Study and Imposing a Moratorium on the Operation of a Cannabis Business Within the City of Brooklyn Center

Requested Council Action:

- *motion to open the public hearing*
- *take public comment;*
- *close the public hearing;*
- *motion to adopt an interim ordinance authorizing a study and imposing a moratorium on the operation of a cannabis business within the City of Brooklyn Center*

Background:

At the June 12 City Council meeting, the city council heard a presentation and the first reading of an interim moratorium on the operation of a cannabis business within the City of Brooklyn Center.

Tonight is the second reading and public hearing regarding the interim ordinance.

Budget Issues:

- None

Inclusive Community Engagement:

- None

Antiracist/Equity Policy Effect:

- None

Strategic Priorities and Values:

Enhanced Community Image, Safe, Secure, Stable Community, Operational Excellence

ATTACHMENTS:

Description	Upload Date	Type
Ordinance	7/7/2023	Ordinance
Resolution Summary Publication	7/7/2023	Resolution Letter

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the 10th day of July, 2023, at 7:00 p.m. or as soon thereafter as the matter may be heard at City Hall, 6301 Shingle Creek Parkway, to consider an interim ordinance authorizing a study and imposing a moratorium on the operation of a cannabis business within the City of Brooklyn Center.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please contact the City Clerk at 763-569-3300 to make arrangements.

CITY OF BROOKLYN CENTER

ORDINANCE NO. 2023-04

AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A
MORATORIUM ON THE OPERATION OF A CANNABIS BUSINESS WITHIN THE
CITY OF BROOKLYN CENTER

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS
FOLLOWS:

ARTICLE I. Authority and Legislative Findings.

- A. The Minnesota Legislature recently enacted, and Governor signed, 2023 Minnesota Session Laws, Chapter 63 – H.F. No. 100 (“Act”), which is comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (“OCM”), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis businesses and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions and providing for the temporary regulation of certain edible cannabinoid products.
- B. The Act provides local units of government certain authority related to cannabis businesses, including the authority to (1) require local registration of certain cannabis businesses operating retail establishments, (2) adopt reasonable restrictions on the time, place, and manner of the operation of cannabis businesses, provided that such restrictions do not prohibit the establishment or operation of a cannabis businesses, (3) limit the number of certain cannabis businesses based on the population of the community, and (4) prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field.
- C. The Act requires the OCM, which was established effective July 1, 2023, to work with local governments to develop model ordinances for reasonable restrictions on the time,

place, and manner of the operation of cannabis businesses. The Act also requires the OCM to establish additional rules and regulations relating to the operation of cannabis businesses. The City will benefit from reviewing and analyzing the OCM's model ordinances, rules and regulations before making any decisions related to the regulation of cannabis businesses in the City.

- D. The Act (Minnesota Statutes, section 342.13(e)) expressly allows a local unit of government that is conducting studies or has authorized a study to be conducted or has held or scheduled a hearing for the purpose of considering adoption or amendment of reasonable restrictions on the time, place and manner of the operation of cannabis businesses to adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit the operation of cannabis businesses within the jurisdiction or a portion thereof until January 1, 2025.
- E. Given the uncertainty regarding the model ordinances to be developed by the OCM and the broad scope of the changes to Minnesota law brought about by the Act, the City desires to adopt an interim ordinance for the purpose of protecting the planning process and the health, safety, and welfare of its citizens.
- F. The City desires to conduct a study for the purpose of considering the adoption or amendment of reasonable restrictions on the time, place and manner of the operation of cannabis businesses as well as the other regulations local units of government may adopt under the Act.
- G. On July 10, 2023, after providing at least 10 days published notice, the City Council held a public hearing regarding the consideration and adoption of an interim ordinance prohibiting the operation of cannabis businesses within the City until January 1, 2025.

ARTICLE II. Definitions. For purposes of this Ordinance, the following terms shall have the meaning given them in this section.

- (a) "Act" means 2023 Minnesota Session Laws, Chapter 63 (H.F. No. 100).
- (b) "Cannabis Business" has the meaning given the term in Minnesota Statutes, section 342.01, subdivision 14.
- (c) "City" means the City of Brooklyn Center.
- (d) "Edible Cannabinoid Product" has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(f).
- (e) "OCM" means the Office of Cannabis Management, established as set forth in Minnesota Statutes, section 342.02, subd. 1.

- (f) “Ordinance” means this interim ordinance, which is adopted pursuant to Minnesota Statutes, section 342.13(e).

ARTICLE III. Study Authorized. The City Council hereby authorizes and directs the City Administrator/City Manager to have City staff conduct a study regarding the adoption or amendment of reasonable restrictions on the time, place, and manner of the operation of Cannabis Businesses, as well as the other potential local regulations allowed under the Act, and report to the City Council on the potential regulation of Cannabis Businesses. The study must include a review of the model ordinances the OCM is directed to draft under Minnesota Statutes, section 342.13(d), an analysis of potential setback regulations allowed under Minnesota Statutes, section 342.13(c), and such other matters as staff may determine are relevant to the City Council’s consideration of this matter. The report shall include the City staff’s recommendations on whether the City Council should adopt regulations and, if so, the recommended types of regulations.

ARTICLE IV. Moratorium. A moratorium is hereby imposed regarding the operation of a Cannabis Business within the City. During the term of this Ordinance, no business, person, or entity may establish or operate a Cannabis Business within the jurisdictional boundaries of the City. The City shall not accept, process, or act on any application, site plan, building permit, zoning request, or other approval, including any requested confirmation, certification, approval, or other request from the OCM or other governmental entity requesting City review of any application or proposal for a business proposing to engage in the operation of a Cannabis Business.

ARTICLE V. Violation. During the term of the moratorium, it is a violation of this Ordinance for any business, person, or entity to establish or operate a Cannabis Business within the City.

ARTICLE VI. Exceptions. The moratorium imposed by this Ordinance does not apply to: (1) the continued operation of a business as part of the Medical Cannabis Program administered by the Minnesota Department of Health that was lawfully operating within the City prior to July 1, 2023; (2) the lawful sale of Edible Cannabinoid Products in compliance with Minnesota Statutes, section 151.72; or (3) sales of Edible Cannabinoid Products at an exclusive liquor store in accordance with Minnesota Statutes, section 340A.412, subdivision 14. Nothing in this Article exempts a business, person, or entity that is selling Edible Cannabinoid Products from having to comply with all requirements and prohibitions of applicable laws and ordinances.

ARTICLE VII. Enforcement. Violation of this Ordinance is a misdemeanor. The City may also enforce this Ordinance by mandamus, injunction, or other appropriate civil remedy in any court of competent jurisdiction. A violation of this Ordinance is also subject to the City’s general penalty in City Code and may result in the City reporting the violation to the OCM if relevant to OCM licensing. The City Council hereby authorizes the City Administrator/City Manager, in consultation with the City Attorney, to initiate any legal action deemed necessary to secure compliance with this Ordinance.

ARTICLE VIII. Duration. This Ordinance shall become effective on the first day of publication after adoption and shall remain in effect until January 1, 2025. This Ordinance may be repealed earlier upon the effective date of an ordinance adopting or amending reasonable restrictions on the

time, place and manner of the operation of a Cannabis Business within the City or by resolution of the City Council terminating this Ordinance prior to the expiration date.

ARTICLE IX. Severability. Every section, provision, and part of this Ordinance is declared severable from every other section, provision, and part thereof. If any section, provision, or part of this Ordinance is held to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this Ordinance.

Adopted this 10th day of July, 2023.

April Graves, Mayor

ATTEST: _____
Barbara Suciu, City Clerk

Date of Publication _____, 2023

Effective Date _____, 2023

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

CITY OF BROOKLYN CENTER, MINNESOTA

RESOLUTION APPROVING THE SECOND READING OF AN INTERIM
ORDINANCE AUTHORIZING A STUDY AND IMPOSING A MORATORIUM ON
THE OPERATION OF A CANNABIS BUSINESS WITHIN THE CITY OF
BROOKLYN CENTER

WHEREAS, the Minnesota Legislature recently enacted, and Governor signed, Chapter 63 – H.F. No. 100, which is comprehensive legislation relating to cannabis including, but not limited to, the establishment of the Office of Cannabis Management (“OCM”), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis businesses and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions and providing for the temporary regulation of certain edible cannabinoid products.

WHEREAS, the City Attorney presented to the City Council on June 12, 2023, the option of imposing an interim ordinance authorizing a study and imposing a moratorium on the operation of a cannabis business within the city of Brooklyn Center.

WHEREAS, the City Council held a public hearing and adopted the Interim Ordinance 2023-02, authorizing a study and imposing a moratorium on the operation of a cannabis business within the city of Brooklyn Center until January 1, 2025.

City of Brooklyn Center

ORDINANCE NO. 2023-04

AN INTERIM ORDINANCE AUTHORIZING A STUDY AND IMPOSING A
MORATORIUM ON THE OPERATION OF A CANNABIS BUSINESS WITHIN THE
CITY OF BROOKLYN CENTER

Please take notice that the City Council of the City of Brooklyn Center has adopted an interim ordinance authorizing a Study and Imposing a Moratorium on the Operation of a Cannabis Business within the City of Brooklyn Center until January 1, 2025.

The full interim ordinance can be viewed on the City’s website.

July 10, 2023

Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
and upon vote being taken thereon, the following voted in favor thereof:
and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Jesse Anderson, Community Development Director

SUBJECT: Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) and Predevelopment Funding and Authorizing Application for Grant Funds for Resurrecting Faith World Ministries Conference/Event Center

Requested Council Action:

- Motion to approve the resolution identifying the need for Livable Communities Demonstration Account and Pre-Development grants and authorizing an application for grants funds.

Background:

Livable Communities Act (LCA) grants are awarded to communities that participate in the Livable Communities Program in the seven-county metro region. Through different grant programs, LCA grants help communities achieve development goals that create more housing choice, support living wage job creation, and connect jobs, housing, and regional amenities to create a more equitable region.

Each of the multiple LCA programs and each have a different focus.

- Livable Communities Demonstration Account (LCDA) supports development and redevelopment projects that link housing, jobs and services, and use community and regional infrastructure efficiently
- LCDA - Transit Oriented Development (LCDA-TOD) grants are focused on high density projects that contribute to a mix of uses in TOD-eligible areas.
- The Tax Base Revitalization Account (TBRA) helps clean up contaminated land and buildings for subsequent development. These grants are intended to provide the greatest public benefit for the money spent, strengthen the local tax base, and create and preserve jobs and/or affordable housing. TBRA has three different funding opportunities: Contamination Cleanup, Site Investigation, and SEED.
- The Local Housing Incentives Account (LHIA) helps expand and preserve lifecycle and affordable housing, both rented and owned. LHIA applications are submitted through the Minnesota Housing Super RFP, as opposed to directly to Met Council.
- Pre-Development grants are for teams who are defining or redefining a project that will support Livable Communities goals. Eligible costs are for early-stage activities like design workshops, financial studies, project impact analyses, and community engagement.

For this funding round, staff is seeking authorization to apply on behalf of Resurrecting Faith World

Ministries(RFWM) for a LCDA grant and pre-development grant. RFWM proposed project is located within the opportunity Site and RFWM will develop a Conference/Event Center, 24-hour Childcare/Early Learning Center, Therapy Wellness Office, and 10 Barber/Beautician Suites which will be about 27,000 sf.

Staff believes the project is eligible for Pre-development and LCDA funding, and staff believes they will make competitive applications.

The City is allotted 3 application to Met Council for LCDA and has already approved New Generation LLC.

Budget Issues:

There are no budget issues to consider.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

The Metropolitan Council has developed new scoring criteria, which heavily focuses on equity and anti-racist outcomes for projects which are to receive funding. Criteria includes demonstrated outreach to impacted and underrepresented communities, identification of specific residential and/or workforce development community needs addressed by the project, project teams which reflect and are responsive to those most impacted by the project. These projects will likely to score well in these criteria relative to others they will compete against.

Strategic Priorities and Values:

Targeted Redevelopment

ATTACHMENTS:

Description	Upload Date	Type
RFWM LCDA Summary	6/30/2023	Backup Material
RFWM Pre-Dev Summary	6/30/2023	Backup Material
Met Council Pre-Dev Program Summary	6/30/2023	Backup Material
Met Council LCDA Program Summary	6/30/2023	Backup Material
Resolution	7/5/2023	Resolution Letter

Resurrecting Faith World Ministries

Seeking \$4,000,000 with the MET Council LCDA Grant

The proposed project is located at the SE corner of Shingle Creek Parkway and Bass Lake Rd, is just under ½ mile from the recently renovated Brooklyn Center Transit Center, which is home to Metro Transit's C and D Line BRT. The project comprises one part of a unique and thoughtful development process and program that brings diverse partners together with the intent of helping the City of Brooklyn Center achieve a new vision for the community. The project is the result of an intensive and ongoing community engagement process that has helped give voice to historically underserved and marginalized groups that are

highly representative of the population of Brooklyn Center, which is roughly 59% BIPOC, has a median HH income of roughly \$64,000 and a relatively high number of cost burdened households.

The vision for the area is for a new and modern downtown for the City; one that is affordable, walkable, welcoming, community building, stability, and wealth building for its citizens, and that is accessible to all communities. It includes 750 housing units, Conference/Event Center, 24-hour Childcare Center & Learning Center, Therapy suites, outdoor gathering spaces, streets, regional stormwater infrastructure, and a 30,000 sf entrepreneurial market, to be owned by the City's EDA upon completion. Each of these individual projects have been divided into "sub-phases" that will be undertaken by a development team that includes Alatus LLC, Project for Pride in Living (PPL), and Resurrecting Faith World Ministries (RFWM). **RFWM will develop a Conference/Event Center, 24-hour Childcare/Early Learning Center, Therapy Wellness Office, and 10 Barber/Beautician Suites which will be about 27,000 sf; and PPL partnering with RFWM will develop roughly 250 units of affordable housing in four buildings.**

The 24-hour Childcare center will have the capacity of 80 childcare per shift, servicing ages 6 weeks to 5 years old, and will be open Monday through Saturday.

To date, Brooklyn Center has approved the development teams term sheet, total TIF allotment of \$30 million, and Land Use approval.

RFWM, who is a BIPOC developer, will use the LCDA funds to pay for Commercial Construction Cost. RFWM has hired BKV as their architect group. To date they have schematic drawings of the building and are in the process of working with their General Contractor for finalized GMP before breaking ground. They have hired Alatus Construction as their General Contractor.

Working with Kennedy & Graven the development team is in the process of finalizing the development agreement. We plan to have the agreement finalized by August 28, 2023.



Resurrecting Faith World Ministries

Seeking \$300,000 with the MET Council LCA Pre-Development Grant

The proposed project is located at the SE corner of Shingle Creek Parkway and Bass Lake Rd, is just under ½ mile from the recently renovated Brooklyn Center Transit Center, which is home to Metro Transit's C and D Line BRT. The project comprises one part of a unique and thoughtful development process and program that brings diverse partners together with the intent of helping the City of Brooklyn Center achieve a new vision for the community. The project is the result of an intensive and ongoing community engagement process that has helped give voice to historically underserved and marginalized groups that are

highly representative of the population of Brooklyn Center, which is roughly 59% BIPOC, has a median HH income of roughly \$64,000 and a relatively high number of cost burdened households.

The vision for the area is for a new and modern downtown for the City; one that is affordable, walkable, welcoming, community building, stability, and wealth building for its citizens, and that is accessible to all communities. It includes 750 housing units, Conference/Event Center, 24-hour Childcare Center & Learning Center, Therapy suites, outdoor gathering spaces, streets, regional stormwater infrastructure, and a 30,000 sf entrepreneurial market, to be owned by the City's EDA upon completion. Each of these individual projects have been divided into "sub-phases" that will be undertaken by a development team that includes Alatus LLC, Project for Pride in Living (PPL), and Resurrecting Faith World Ministries (RFWM). **RFWM will develop a Conference/Event Center, 24-hour Childcare/Early Learning Center, Therapy Wellness Office, and 10 Barber/Beautician Suites which will be about 27,000 sf; and PPL partnering with RFWM will develop roughly 250 units of affordable housing in four buildings.**

The 24-hour Childcare center will have the capacity of 80 childcare per shift, servicing ages 6 weeks to 5 years old, and will be open Monday through Saturday.

To date, Brooklyn Center has approved the development teams term sheet, total TIF allotment of \$30 million, and Land Use approval.

RFWM, who is a BIPOC developer, will use the LCA funds to pay for Pre-Construction Architectural Design cost. RFWM has hired BKV as their architect group. To date they have schematic drawings of the building and are in the process of working with their General Contractor for finalized GMP before breaking ground. They have hired Alatus Construction as their General Contractor.

Working with Kennedy & Graven the development team is in the process of finalizing the development agreement. We plan to have the agreement finalized by August 28, 2023.



PRE-DEVELOPMENT

Funding

Available Funding: \$2,000,000 (includes Policy Development)

Award Limit: \$300,000 per city per round (includes up to \$50,000 in Policy Development funding)

Application Limit: No more than six per city or county per round

Local Match: None

Grant Term: Two years (up to one year extension possible)

Distribution: 50% of the award will be disbursed upfront when an agreement is signed between city and project team*

**Not all cities will participate. Contact city staff to learn more.*

Key Dates

Round One Due: April 21, 2023

Round One Decision: June, 2023

Round Two Due: July 21, 2023

Round Two Decision: September, 2023

Pre-Development Eligible Costs

WHAT: PROPOSED PROJECT OUTCOMES

Environmental Sustainability

- Soil testing to determine feasible land uses that increase diversity or intensity on the project site (not environmental testing)
- Project-specific or district-wide stormwater management plans, district-wide heating and cooling plans, and district-wide waste management plans that conserve natural resources and mitigate impacts on climate change
- Passive building design and energy efficient improvement planning to conserve natural resources and reduce Greenhouse Gas emissions
- Development of Travel Demand Management Plan or other strategies to reduce emissions in and around the project site
- Landscaping plans that will conserve natural resources, increase greenspace, and prioritize native plants and pollinators
- Sustainability assessments, design and engineering (for example project/district stormwater management and district heating/cooling)

Site Planning

- Development of site plans, public realm plans, and/or outdoor recreation plans
- Public art design process to create an intentionally designed piece of public art. The design process should include an artist or arts organization.
- Phasing or staging plans for an identified parcel or multiple contiguous parcels
- Site selection between 2 -3 potential sites
- Additional design work to include Universal Design or other accessibility features beyond local requirements
- Culturally specific site design and planning to best reflect priorities of the community/ies being served by the project
- Architectural design services (schematic design and design development)

Program Coordinators

stephen.klimek@metc.state.mn.us (Hennepin County)

hannah.gary@metc.state.mn.us (all other counties)



PRE-DEVELOPMENT

Eligible Costs

WHAT: PROPOSED PROJECT OUTCOMES

Acquisition and Preservation/Rehab

- Physical or capital needs assessment or energy audits for rehab of affordable housing buildings and/or units (only eligible for units affordable at 60% of AMI with income restrictions in place for a minimum of 15 years) or jobs that meet outlined scoring criteria.
- Appraisal for site acquisition
- Strategies for site acquisition

Financial Models

- Financial modeling to determine finance structure for project development and long-term management of affordable housing and jobs projects located in low income areas
- Feasibility studies to determine project feasibility, a housing mix that increases housing choice or commercial mix to support living wage jobs, or a market study to determine the demand for the proposed development project or project elements

HOW AND WHO: PROPOSED PROJECT PROCESS AND PROJECT PARTNERS TO SUPPORT EQUITABLE DEVELOPMENT STRATEGIES

- Design workshops and community engagement activities that center those least represented and most impact by historic racial inequities (including but not limited to compensation for consultants leading work, participants, advisory committee members, childcare, food for engagement events*)
- Community Benefits Agreement
- Understanding history of discrimination and land ownership in and around the project site and using that information to inform the future project
- Health Impact Assessment, displacement risk assessment and/or mitigation plan, equity analysis impact analysis
- Wealth building planning
- Developer mentoring for new and/or small developers
- Displacement prevention planning

Ineligible Costs

- Corridor, small area or station area plans
- Area analysis of alternatives for market mix or financial feasibility
- Strategies for land banking
- Generic traffic study, environmental review such as AUAR, EAW, or EIS, appraisals, permits, etc...
- Administrative overhead
- Soft costs which are not directly related to an awarded grant activity
- Work done before the grant was awarded

Program Coordinators

stephen.klimek@metc.state.mn.us (Hennepin County)

hannah.gary@metc.state.mn.us (all other counties)



PRE-DEVELOPMENT

Pre-Development Scoring Table

While we recognize there are different types of inequities based on identity and circumstance, LCA is focused on addressing racial inequity in the region given race is the largest predictor of inequitable outcomes in jobs, housing, and other LCA goals. Projects addressing racial equity will be prioritized in scoring. Projects addressing other inequities will earn points towards how they address those inequities but will not receive full points unless they also consider the intersection of racial inequity.

What: Pre-Development Project Outcomes

The goals and vision of the proposed project would meet one or more of the following LCA and/or Thrive goals:

Criteria:		Points
LCA and Thrive Goals	Add new housing types and create affordable housing. Priority for projects with deep affordability and/or serving populations who have barriers to finding housing	10
	Create or preserve long-term living wage jobs or support economic opportunity for people experiencing the most economic hardships	
	Increase density on the site and make it easier for people to travel between housing, jobs, services, and amenities	
	Minimize climate impact by reducing greenhouse gas emissions and conserving natural resources	
	Further equity outcomes by fostering regional connections, mitigating climate impacts and implicit bias, removing barriers to access affordable housing, creating living wage jobs, and supporting the creation of small businesses owned and operated by a historically marginalized population	
How: Pre-Development Project Process		
Process	Show an understanding of who will benefit most from the project and in what ways, and use this understanding to shape equitable development strategies and outcomes	12
	Engagement is or will be scaled to the size of the project and harnesses the power of community to co-create the development project	
Who: Proposed Project Team		
Who Is Involved	The strength of the partnership between the applicant (City/County/HRA/EDA) and development partner(s), including the level of support and engagement the applicant has with the project	10
	Those with decision-making power reflect the community the project will serve or the predevelopment activities will build a reflective team	
Total		32
Applications must score at least 22 of the 32 points available		

Program Coordinators

stephen.klimek@metc.state.mn.us (Hennepin County)

hannah.gary@metc.state.mn.us (all other counties)



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

Funding

Available Funding: \$9.3 million

Award Limit: No more than 40% of funds to Minneapolis and Saint Paul if applications from other cities/counties exceed 60%

Application Limit: Three per city or county applicant

Grant Term: Three years (up to two year extension possible)

Key Dates

Application Due: August 14, 2023

Step One Decision: October 2023

Funding Decision: December 2023

Development Eligible Costs Table

- All affordable housing must be affordable for a minimum of 15 years at 60% or lower of AMI
- Design and engineering fees for eligible activities can be up to 10% of the total award amount.
- Site acquisition is only eligible for affordable housing units or for jobs projects that improve access for low-income residents.
- Holding costs can be up to 5% of the requested site acquisition support or \$100,000, whichever is less
- Support for activities that are eligible only for affordable housing units will be prorated to the percentage of affordable units in the project.

Eligible Costs

Environmental Sustainability

- Infiltration swales or tanks
- Landscaping that is an integrated part of the stormwater management system
- Pervious pavement
- Green roofs
- Geothermal heat pumps
- Fuel cells; and Wind turbines
- Project specific or district-wide stormwater management, heating/cooling management, and waste management systems
- EV charging infrastructure or installation costs
- Photovoltaic cells

Program Coordinator

Hannah Gary
hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

Development Eligible Costs Table Continued

Eligible Costs

Ineligible Costs

Project Site

- Public space that is open to the general public. Elements can include, but are not limited to:
 - lighting
 - landscaping
 - seating and furnishings
 - sidewalks and paths
 - Wayfinding elements
 - public restrooms (does not include SAC charges)
- Public art design process to create an intentionally designed piece of public art which contributes to the identity or sense of place of the development project and/or surrounding neighborhood. The design process should include an artist or arts organization.
- Public art features, including but not limited to murals, mosaics, and sculptures, which contribute to the identity or sense of place of the development project and/or surrounding neighborhood. To be considered public art, it must be led and fabricated by a professional artist and/or art organization.
- Playgrounds or outdoor recreational areas intended to serve residents of affordable housing developments
- Public community gardens or community gardens at affordable housing developments
- Demolition and removal of existing structures.
- Grading and soil correction to prepare a site for construction
- Outdoor resident amenity spaces for affordable housing projects
- General landscaping elements for affordable housing projects
- Construction costs for affordable housing or economic opportunity projects

- City or neighborhood parks
- Parks, playgrounds, or areas that are primarily for the use of the development project's tenants or residents of market rate residential buildings
- Demolition, abatement, cleanup, removal, hauling or disposal of contaminated materials or debris.
- Cleanup, removal, hauling or disposal of contaminated soil or debris.

Program Coordinator

Hannah Gary
hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

Development Eligible Costs Table Continued

Eligible Costs

Improved Connections

- New streets or street extensions only for local public streets
- Public sidewalks, trails, or bike infrastructure that enhance the pedestrian environment and connect the project to nearby uses and amenities
- Site-integrated transit shelters (work with Metro)
- Transit early if including a transit shelter)
- Bike facilities that are open to the public, are in affordable housing buildings, or in jobs projects
- Extensions or modifications of local public utilities that directly serve the development project
- Publicly available portion of shared-use parking
- Enhanced broadband connections for affordable housing projects
- Universal design elements to improve accessible connections to and within the project site
- Landscaping to improve the experience for people walking, biking, or rolling to/through the site

Ineligible Costs

- County road improvements
- Private sidewalks, amenities or amenity spaces specifically serving market rate residential development projects
- Perimeter sidewalks or boulevards that do not improve the bike or pedestrian experience
- Surface parking and parking without a shared public component
- Expansion or extension of local public utilities not directly related to the development project
- Transit infrastructure or capital investments e.g., transit stations, station platforms, and park-and-ride facilities.
- Regional parks or trails and trails that would otherwise be included within a city's capital improvement budget
- Trail, sidewalk, or road connections that do not directly connect to or support the project site.

Eligible Costs

Design & Community Engagement

- Design workshops and community engagement activities that center those least represented and most impact by historic racial inequities (including but not limited to compensation for consultants leading work, participants, advisory committee members, childcare, food for engagement events*)
- Design and engineering fees for grant eligible activities (up to 10% of the total award)

* Food costs should be within Council limits and prioritize DBE or DBE qualifying vendors

Ineligible Costs

- Architectural and engineering fees related to the general site or building or not related directly to grant-funded elements specifically listed as "eligible"
- Traditional public meetings or other engagement activities required by law

Program Coordinator

Hannah Gary

hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

Development Eligible Costs Table Continued

Eligible Costs

Acquisition for Affordable Housing and Economic Opportunity

- Site acquisition for affordable housing projects or projects focused on bringing jobs to low-income areas. Eligible sites acquired after the date of award or for sites acquired within 12 months before the application is due are eligible
- Holding costs up to 5% of the awarded acquisition amount or \$100,000, whichever is less.
 - Eligible holding costs include property maintenance, insurance, and interest.

Ineligible Costs

- Sites purchased more than 12 months before the application due date
- Acquisition for market rate housing or jobs not in low-income areas
- Sites purchased from a project partner who will gain financially from the purchase
- Site assembly for lands to be used for transit infrastructure.

Eligible Costs

Preservation and/or Rehab for Affordable Housing or Economic Opportunity

- Exterior improvements to bring the building to code or improve energy efficiency of the building. Examples include window replacement, roof replacement, exterior finishing replacement (brick siding, etc.), or mechanical system replacement (Savings from energy efficiency should be passed on to the residents or tenants/occupants of commercial buildings))
- Improvements to interior of affordable units or commercial building to bring building to code, increase energy efficiency, and improve the quality of life of current or future residents. Examples include low flow plumbing fixtures or energy savings appliances.
- Improvements to indoor communal spaces. Examples include improvements to community gathering rooms, fitness centers, and areas in which supportive services are offered.
- Improvements to building grounds and outdoor community gathering spaces. Examples include landscaping, playgrounds, greenspace, and community gardens.

Affordable and market rate units should be identical and evenly distributed throughout the building(s)

Ineligible Costs

- Legal fees associated with preservation
- Upgrades to market rate units
- Relocation costs

Program Coordinator

Hannah Gary

hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

LCDA Scoring Table

While we recognize there are different types of inequities based on identity and circumstance, LCA is focused on addressing racial inequity in the region given race is the largest predictor of inequitable outcomes in jobs, housing, and other LCA goals. Projects addressing racial equity will be prioritized in scoring. Projects addressing other inequities will earn points towards how they address those inequities but will not receive full points unless they also consider the intersection of racial inequity.

Step One- Scored by staff		Step Two- Scored by LCAC		
Criteria	Points	Points	Criteria	Points
Housing	Build or preserve affordable housing; priority given for projects that serve residents not who have barriers to finding safe, affordable housing, for projects with the deepest affordability, and for those including supportive services or other needed services	8	Support current or future residents through design, programming, and/or services	4
	Create new affordable housing that helps the City meet their share of the region's need for affordable housing at needed affordability levels; OR Preserve and rehabilitate affordable housing, prioritizing communities at highest risk of losing Naturally Occurring Affordable Housing (NOAH) and/or communities with more housing cost burdened households			
	Further equity outcomes in housing access*	2*		
Environment and Livability	Create or preserve permanent jobs OR Create workforce development and/or training opportunities; priority for projects with full-time living wage jobs	8	Support economic opportunity and/or growth for those experiencing the largest economic hardships through the business model, training programs, or project mission	4
	Create economic opportunity in health care, technology or environmental sustainability fields; advance strategic city job growth priorities; and/or create or preserve industrial jobs with access to regional transit systems			
	Further equity outcomes in access to economic opportunity*	2*		

Program Coordinator

Hannah Gary
hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

LCDA Scoring Table continued

WHAT: PROPOSED PROJECT OUTCOMES				
Step One			Step Two	
	Criteria	Points	Criteria	Points
Compact, Connected Development	Increase density or intensity of land use in the project area; OR Use an existing building that brings more activity to the project site.	8	Make it easier and more comfortable for people to walk, bike, roll, or use other kinds of transportation in and around the project site. Connect to walking, biking, or transit networks around the project site.	4
	Add new uses to the project area to better meet residents’ needs.			
	Further equity outcomes in access to services and amenities*	2*		
Environment and Livability	Improve access to local and regional parks and trails and green space through outreach, site design, or programming	8	Mitigate negative environmental impacts on residents or workers in the area; priority for projects in areas most impacted by past environmental harms	4
	Minimize greenhouse gas emissions to the greatest extent possible			
	Conserve natural resources, including reuse/preservation of an existing building and/or sustainable site design; priority for a focus on equitable development outcomes			
	Further equitable access to local and regional parks and/or address environmental sustainability in locations where residents have been most impacted by environmental harms*	2*		
Subtotal Outcomes		40	Subtotal Outcomes	16

Program Coordinator

Hannah Gary
hannah.gary@metc.state.mn.us



LIVABLE COMMUNITIES DEMONSTRATION ACCOUNT (LCDA) DEVELOPMENT

LCDA
DEV

LCDA Scoring Table continued

HOW: PROPOSED PROJECT PROCESS				
Step One			Step Two	
	Criteria	Points	Criteria	Points
Project Process	The need for the project was determined by residents and/or workers most impacted by inequities*	5*	Engagement is scaled to the project, meaningful, and efforts center those under- represented and most impacted by inequities	4
	The City is taking steps toward addressing inequities at the local level, especially efforts to implement equitable development practices*	3*		
Subtotal Process		8	Subtotal Process	4
WHO: PROPOSED PROJECT TEAM				
Project Team	City efforts to contribute to the project financially, considering the city capacity	4	The project and the team use a strategic and integrated approach to addressing equity issues and the intended impacts of the project will result in more equitable outcomes	5
	Those with decision making power for the project are reflective of the community the project is intending to serve*	2*		
Subtotal Team		6	Subtotal Outcomes	5
Step One Total		54	Step Two Total	25
Applications must score at least 32 of the total Step One points to move to Step Two with 12 of the 18 equity points (*) awarded				
Applications must score at least 47 of the total available points to be eligible for funding				

Program Coordinator

Hannah Gary
hannah.gary@metc.state.mn.us



Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. 2023- ____

RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT AND PRE-DEVELOPMENT FUNDS AND
AUTHORIZING AN APPLICATION FOR GRANT FUNDS

WHEREAS, the City of Brooklyn Center is a participant in the Metropolitan Livable Communities Act (“LCA”) Local Housing Incentives Program for 2023 as determined by the Metropolitan Council, and is therefore eligible to apply for LCA Livable Communities Demonstration Account and Predevelopment grant funds; and

WHEREAS, the City has identified proposed projects within the City that meet LCDA purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council’s adopted metropolitan development guide; and

WHEREAS, the City has the institutional, managerial and financial capability to adequately manage an LCDA grant and Predevelopment grant; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples or prototypes for LCDA development or redevelopment elsewhere in the Region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities; and

WHEREAS, the City acknowledges Met Council Predevelopment Livable Demonstration Account grants are intended to fund development projects through predevelopment work.

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council’s Livable Communities LCDA initiative and Predevelopment grants during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of grant funding.

NOW, THEREFORE, BE IT RESOLVED that, after appropriate examination and due consideration, the governing body of the City:

1. Finds that it is in the best interests of the City’s development goals and priorities for the following proposed LCDA projects to occur at this particular site at this particular time:

Resurrecting Faith World Ministries Conference/Event Center

2. Finds that that LCDA Project component(s) for which Livable Communities LCDA and Predevelopment funding is sought:
 - a. Will not occur solely through private or other public investment within the reasonable foreseeable future; and
 - b. Will occur within the term of the grant award (two years for Pre-Development grants, and three years for Development grants,) only if Livable Communities LCDA funding is made available for this project at this time.
3. Authorizes the City Manger to submit on behalf of the City an application for Metropolitan Council Livable Communities LCDA grant funds and Predevelopment grants funds for the project components identified in the application, and to execute such agreements as may be necessary to implement the Project on behalf of the City.

July 10, 2023

Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Council Regular Meeting

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH:

BY: Jesse Anderson, Community Development Director

SUBJECT: Resolution Identifying the Need for Livable Communities Demonstration Account (LCDA) Transit-Oriented Development Funding and Authorizing an Applications for Grant Funds for African Career, Education and Resource (ACER) Innovation and Catalyst Center (ICC)

Requested Council Action:

- Motion to approve the resolution identifying the need for Livable Communities Demonstration Account Transit-Oriented development funding and authorizing an application for grants funds.

Background:

Livable Communities Act (LCA) grants are awarded to communities that participate in the Livable Communities Program in the seven-county metro region. Through different grant programs, LCA grants help communities achieve development goals that create more housing choice, support living wage job creation, and connect jobs, housing, and regional amenities to create a more equitable region.

Each of the multiple LCA programs and each have a different focus.

- Livable Communities Demonstration Account (LCDA) supports development and redevelopment projects that link housing, jobs and services, and use community and regional infrastructure efficiently
- LCDA - Transit Oriented Development (LCDA-TOD) grants are focused on high density projects that contribute to a mix of uses in TOD-eligible areas.
- The Tax Base Revitalization Account (TBRA) helps clean up contaminated land and buildings for subsequent development. These grants are intended to provide the greatest public benefit for the money spent, strengthen the local tax base, and create and preserve jobs and/or affordable housing. TBRA has three different funding opportunities: Contamination Cleanup, Site Investigation, and SEED.
- The Local Housing Incentives Account (LHIA) helps expand and preserve lifecycle and affordable housing, both rented and owned. LHIA applications are submitted through the Minnesota Housing Super RFP, as opposed to directly to Met Council.
- Pre-Development grants are for teams who are defining or redefining a project that will support Livable Communities goals. Eligible costs are for early-stage activities like design workshops, financial studies, project impact analyses, and community engagement.

For this funding round, staff is seeking authorization to apply on behalf of the African Career, Education and Resource (ACER) for LCDA TOD funds to support their Innovation & Catalyst Center. ACER will move from two suites it currently leases in Brooklyn Center to a unit in the building. ACER will operate programs and services

at the property, including the Business Resource Center, which will provide onsite small business technical assistance, resources, and workforce programming, in partnership with COPAL and HIRED to tenants and the broader Brooklyn Center and Northwest Suburbs community. Further, ACER has stated they have a purchase agreement in place for the building located at 6000 and 6050 Shingle Creek Parkway.

Staff has determined that ACER's project is eligible for LCDA TOD funding.

The City is allotted 3 application to Met Council for LCDA TOD.

Budget Issues:

There are no budget items to consider at this time. No funding match is required for the use of grant funds.

Inclusive Community Engagement:

Antiracist/Equity Policy Effect:

The Metropolitan Council has developed new scoring criteria, which heavily focuses on equity and anti-racist outcomes for projects which are to receive funding. Criteria includes demonstrated outreach to impacted and underrepresented communities, identification of specific residential and/or workforce development community needs addressed by the project, project teams which reflect and are responsive to those most impacted by the project. Both projects under consideration are likely to score well in these criteria relative to others they will compete against.

Strategic Priorities and Values:

Targeted Redevelopment

ATTACHMENTS:

Description	Upload Date	Type
Project Overview	6/30/2023	Backup Material
TOD Grant Summary	7/5/2023	Resolution Letter
Resolution	7/6/2023	Resolution Letter

Brooklyn Village's, LLC



Innovation & Catalyst Center (ICC)

Property Description: The Shingle Creek Center

6000 & 6050 Shingle Creek Parkway (SCP), Brooklyn Center, MN 55430

Purchase Price: \$5.2 million

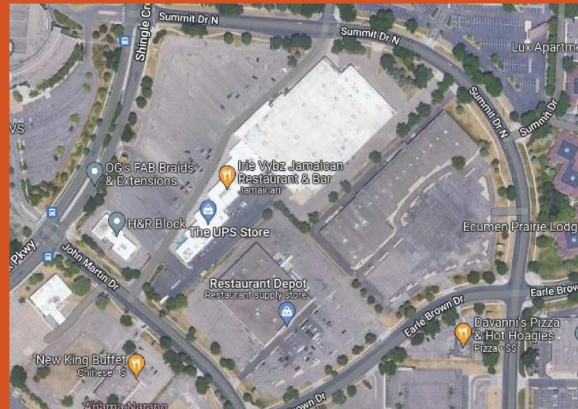
Estimated Closing Costs: \$270,000

Working Capital Reserve: \$53,000

Total Acquisition Cost: \$5,523,000

Property Description:

- Two commercial buildings on 4.4 acres
- 6000 SCP 8,261 SF on 1.6 acres
- 6050 SCP 33,094 on 2.8 acres
- Total 41,355 SF for both buildings
- 18 total leasable units
- 39,178 SF of gross leasable space
- The site is located next to a 120,000-square-foot former Target site on 9.5 acres



Project Overview

ACER, in partnership with the **Ignite Businesswomen Investment Group Cooperative (IBWIG)**, two **Black women-led organizations** based in the Brooklyns, MN, have formed the Brooklyn Village's, LLC to purchase, own and operate a retail mall in Brooklyn Center. The site will house ACER's offices, existing tenants, and some 27 businesses from the IBWIG's membership.

ACER will move from two suites it currently leases in Brooklyn Center to a unit in the building. ACER will operate programs and services at the property, including the Business Resource Center, which will provide onsite small business technical assistance, resources, and workforce programming, in partnership with COPAL and HIRED to tenants and the broader Brooklyn Center and Northwest Suburbs community.

Brooklyn Village's, LLC will retain the site's current property management company, Atlas Commercial Real Estate, to oversee building operations, maintain the property, and collect rent from and engage tenants.

Sources	Amount	Type	Status
ACER	\$159,000	Equity	Committed
IBWIG	\$160,000	Equity	Committed
Foundation	\$300,000	Grant	Committed
Bridge Financing	\$4,904,000	Loans	In-Progress
Total	\$5,523,000		
State of MN (Pay down loans)	\$3,921,463	Grant	Committed
Outstanding Debt	\$982,537	LLCD TOD Grant	Requesting with City of Brooklyn Center

TRANSIT ORIENTED DEVELOPMENT (TOD)

TOD

Funding

Available Funding: \$5.3 million

Award Limit: \$2 million per city

Application Limit: Three per applicant

Grant Term: Three years (up to two year extension possible)

Eligible Areas: 1/2 mile from existing and planned transit corridor stations, and 1/4 mile from High-frequency bus routes. Use the online [“Make-a-Map” tool to verify eligibility](#)

Key Dates

Application Due: August 14, 2023

Step One Decision: : November 2023

Funding Decision: December 2023

Development Eligible Costs Table

- All affordable housing must be affordable for a minimum of 15 years at 60% or lower of AMI
- Design and engineering fees for eligible activities can be up to 10% of the total grant award.
- Site acquisition is only eligible for affordable housing units or for jobs projects that improve access for low-income residents.
 - Holding costs up to 5% of the requested site acquisition support or \$100,000, whichever is less.
- Support for activities that are eligible only for affordable housing units (site acquisition, rehab, in-unit upgrades, resident amenities) will be prorated to the percentage of affordable units in the project.

Eligible Costs

Ineligible Costs

Environmental Sustainability

- Infiltration swales or tanks
- Landscaping that is an integrated part of the stormwater management system
- Pervious pavement
- Green roofs
- Geothermal heat pumps
- Fuel cells; and Wind turbines
- Project specific or district-wide stormwater management, heating/cooling management, and waste management systems
- EV charging infrastructure or installation costs
- Photovoltaic cells

Program Coordinator

Stephen Klimek

stephen.klimek@metc.state.mn.us



TRANSIT ORIENTED DEVELOPMENT (TOD)



Development Eligible Costs Table continued

Eligible Costs	Ineligible Costs
Project Site	
- Public space that encourages social interactions through design or programming. Elements to create welcoming spaces can include, but are not limited to: - lighting - landscaping - seating and furnishings - sidewalks and paths - Wayfinding elements - public restrooms (does not include SAC charges) - Public art design process to create an intentionally designed piece of public art which contributes to the identity or sense of place of the development project and/or surrounding neighborhood. The design process should include an artist or arts organization. - Public art features, including but not limited to murals, mosaics, and sculptures, which contribute to the identity or sense of place of the development project and/or surrounding neighborhood. To be considered public art, it must be led and fabricated by a professional artist and/or art organization. - Playgrounds or outdoor recreational areas intended to serve residents of affordable housing developments - Public community gardens or community gardens at affordable housing developments - Demolition and removal of existing structures. - Grading and soil correction to prepare a site for construction - Outdoor resident amenity spaces for affordable housing projects - General landscaping elements for affordable housing projects and commercial or industrial projects	- advancing economic opportunity - General landscaping elements - City or neighborhood parks - Parks, playgrounds, or areas that are primarily for the use of the development project's tenants or residents of market rate residential buildings - Demolition, abatement, cleanup, removal hauling or disposal of contaminated materials or debris. - Cleanup, removal, hauling or disposal of contaminated soil or debris.

TRANSIT ORIENTED DEVELOPMENT (TOD)

TOD

Development Eligible Costs Table continued

Eligible Costs

Improved Connections

- New streets or street extensions only for local public streets
- Public sidewalks, trails, or bike infrastructure that enhance the pedestrian environment and connect the project to nearby uses and amenities
- Site-integrated transit shelters (work with Metro Transit early if including a transit shelter)
- Outdoor public bike facilities or outdoor bike facilities for residents of affordable housing developments
- Extensions or modifications of local public utilities that directly serve the development project
- Publicly available portion of shared-use parking
- Enhanced broadband connections for affordable housing projects
- Universal design elements to improve accessible connections to and within the project site
- Landscaping to improve the pedestrian experience

Ineligible Costs

- County road improvements
- Private sidewalks, amenities or amenity spaces specifically serving market rate residential development projects
- Perimeter sidewalks or boulevards that do not improve the bike or pedestrian experience
- Surface parking and parking without a shared public component
- Expansion or extension of local public utilities not directly related to the development project
- Transit infrastructure or capital investments e.g., transit stations, station platforms, and park-and-ride facilities.
- Regional parks or trails and trails that would otherwise be included within a city's capital improvement budget
- Trail, sidewalk, or road connections that do not directly connect to or support the project site.

Eligible Costs

Design & Community Engagement

- Design workshops and community engagement activities that center those least represented and most impact by historic racial inequities (including but not limited to compensation for consultants leading work, participants, advisory committee members, childcare, food for engagement events*)
- Design and engineering fees for grant requested activities (up to 10% of the total award)

* Food amounts should be within Council limits and be purchased from DBE or DBE qualifying vendors

Ineligible Costs

- Architectural and engineering fees related to the general site or building or not related directly to grant-funded elements specifically listed as "eligible"
- Traditional public meetings or other engagement activities required by law

Program Coordinator

Stephen Klimek

stephen.klimek@metc.state.mn.us



TRANSIT ORIENTED DEVELOPMENT (TOD)



Development Eligible Costs Table continued

Eligible Costs

Acquisition for Affordable Housing and Jobs

- Site acquisition for affordable housing projects or projects focused on bringing jobs to low-income areas. Eligible sites acquired after the date of award or for sites acquired within 12 months before the application is due are eligible
- Holding costs can be up to 5% of the awarded acquisition amount or \$100,000, whichever is less.
 - Eligible holding costs include property maintenance, insurance, and interest.

Ineligible Costs

- Sites purchased more than 12 months before the application due date
- Acquisition for market rate housing or jobs not in low-income areas
- Sites purchased from a project partner who will gain financially from the purchase
- Site assembly for lands to be used for transit infrastructure..

Eligible Costs

Affordable Housing Preservation and/or Rehab

- Exterior improvements to bring the building to code or improve energy efficiency of the building. Examples include window replacement, roof replacement, exterior finishing replacement (brick siding, etc.), or mechanical system replacement (Savings from energy efficiency should be passed on to the residents)
- Improvements to interior of affordable units to bring building to code, increase energy efficiency, and improve the quality of life of current or future residents. Examples include low flow plumbing fixtures or energy savings appliances.
- Improvements to indoor communal spaces. Examples include improvements to community gathering rooms, fitness centers, and areas in which supportive services are offered.
- Improvements to building grounds and outdoor community gathering spaces. Examples include landscaping, playgrounds, greenspace, and community gardens.

Ineligible Costs

- Legal fees associated with preservation
- Upgrades to market rate units
- Relocation costs

Affordable and market rate units should be identical and evenly distributed throughout the building(s)

TRANSIT ORIENTED DEVELOPMENT (TOD)

TOD

Development Scoring Table

While we recognize there are different types of inequities based on identity and circumstance, LCA is focused on addressing racial inequity in the region given race is the largest predictor of inequitable outcomes in jobs, housing, and other LCA goals. Projects addressing racial equity will be prioritized in scoring. Projects addressing other inequities will earn points towards how they address those inequities but will not receive full points unless they also consider the intersection of racial inequity.

WHAT: PROPOSED PROJECT OUTCOMES				
STEP ONE - SCORED BY STAFF			STEP TWO - SCORED BY LCAC	
Criteria		Points	Criteria	Points
Housing	Build or preserve affordable housing; priority given for projects that serve residents not who have barriers to finding safe, affordable housing, for projects with the deepest affordability, and for those including supportive services or other needed services	8	Meet the needs of current and/or future residents through design, programming, or services	4
	Create new affordable housing that helps the City meet their share of the region's need for affordable housing at needed affordability levels; OR Preserve and rehabilitate affordable housing, prioritizing communities at highest risk of losing Naturally Occurring Affordable Housing (NOAH) and/or communities with more housing cost burdened households			
	Further equity outcomes in housing access*	2*		
Economic Opportunity	Create or preserve permanent jobs OR Create workforce development and/or training opportunities; priority for projects with full-time living wage jobs	8	Support economic and/or growth for those experiencing the largest economic hardships through the business model, training programs, or project mission	4
	Create economic opportunity in priority high-growth and high-opportunity sectors of the region's economy including health care, technology or environment; and/or advance city job growth priorities, and/or create/preserve industrial jobs with access to regional transit systems			
	Further equity outcomes in access to economic opportunity *	2*		

TRANSIT ORIENTED DEVELOPMENT (TOD)

TOD

Development Scoring Table Continued

WHAT: PROPOSED PROJECT OUTCOMES				
STEP ONE			STEP TWO	
Criteria		Points	Criteria	Points
Compact, Connected Development	Increase the level of station area activity through greater density and/or intensity of land use on the site; OR Use an existing building in a way that brings more activity to the project site	16	Provide design-led strategies, specific to the population the project is intending to serve, that support or expand infrastructure for people to safely and effectively walk, bike, roll or use other kinds of transportation in and around the project site; priority for projects that connect to walking, biking, or transit networks around the project site	9
	Provide uses that will diversify station area activity and better meet residents' needs and/or provide greater access to services and amenities; Priority for projects with a focus on complementary uses and fostering human-centered experiences			
	Generate greater transit ridership, a higher diversity of trip purposes viable via transit, and reduce the need to use and own a personal vehicle			
	Further the transit-oriented nature of the station area as a node and/or district of TOD given the specific context of its communities and transit corridor; priority for projects that implement part of a broader adopted plan or vision for the transit station or corridor			
	Further equity outcomes in access to services and amenities*	2*	Catalyze or position the station area for additional transit-oriented development in a way that leverages public infrastructure and avoids displacement of existing residents or businesses	

TRANSIT ORIENTED DEVELOPMENT (TOD)

Development Scoring Table Continued

WHAT: PROPOSED PROJECT OUTCOMES				
STEP ONE			STEP TWO	
Criteria		Points	Criteria	Points
Environment and Livability	Improve access to local and regional parks and trails and green space through outreach, site design, or programming	8	Mitigate negative environmental impacts on residents or workers in the area; priority for projects in areas most impacted by past environmental harms	4
	Minimize greenhouse gas emissions to the greatest extent possible			
	Conserve natural resources, including reuse/ preservation of an existing building and/or sustainable site design; priority for a focus on equitable development outcomes			
	Further equitable access to local and regional parks and/or address environmental sustainability in locations where residents have been most impacted by environmental harms*	2*		
Subtotal Outcomes		48	Subtotal Outcomes	21

TRANSIT ORIENTED DEVELOPMENT (TOD)

Development Scoring Table Continued

HOW: PROPOSED PROJECT PROCESS				
STEP ONE			STEP TWO	
Criteria		Points	Criteria	Points
Process	The need for the project was determined by residents and/or workers most impacted by inequities*	5*	Engagement is scaled to the project, meaningful, and efforts center those under-represented and most impacted by inequities	4
	The City is taking steps toward addressing inequities at the local level, especially efforts to implement equitable development practices*	3*		
Subtotal Process		8	Subtotal Process	4
WHO: PROPOSED PROJECT TEAM				
Project Team	City efforts to contribute to the project financially, considering the city capacity	4	The project and the team use a strategic and integrated approach to addressing equity issues and the intended impacts of the project will result in more equitable outcomes	5
	Those with decision making power for the project are reflective of the community the project is intending to serve*	2*		
Subtotal Team		6	Subtotal Team	5
Step One Total		62	Step Two Total	30
Applications must score at least 38 of the total 62 Step One points to move to Step Two with 12 of the 18 equity points (*) awarded.				
Applications must score at least 58 of the total 92 available points to be eligible for funding				

Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. 2023- ____

RESOLUTION IDENTIFYING THE NEED FOR LIVABLE COMMUNITIES
DEMONSTRATION ACCOUNT TRANSIT ORIENTED DEVELOPMENT FUNDING AND
AUTHORIZING AN APPLICATION FOR GRANT FUNDS

WHEREAS, the City of Brooklyn Center is a participant in the Metropolitan Livable Communities Act (“LCA”) Local Housing Incentives Program for 2023 as determined by the Metropolitan Council, and is therefore eligible to apply for LCA Livable Communities Demonstration Account Transit-Oriented Development grant funds; and

WHEREAS, the City has identified a proposed project within the City that meets LCDA - TOD purposes and criteria and is consistent with and promotes the purposes of the Metropolitan Livable Communities Act and the policies of the Metropolitan Council’s adopted metropolitan development guide; and

WHEREAS, the City has the institutional, managerial and financial capability to adequately manage an LCDA Transit-Oriented Development grant; and

WHEREAS, the City certifies that it will comply with all applicable laws and regulations as stated in the grant agreement; and

WHEREAS, the City acknowledges LCDA grants are intended to fund projects or project components that can serve as models, examples or prototypes for LCDA development or redevelopment elsewhere in the Region, and therefore represents that the proposed project or key components of the proposed project can be replicated in other metropolitan-area communities; and

WHEREAS, only a limited amount of grant funding is available through the Metropolitan Council’s Livable Communities LCDA initiative during each funding cycle and the Metropolitan Council has determined it is appropriate to allocate those scarce grant funds only to eligible projects that would not occur without the availability of grant funding.

NOW, THEREFORE, BE IT RESOLVED that, after appropriate examination and due consideration, the governing body of the City:

1. Finds that it is in the best interests of the City’s development goals and priorities for the following proposed LCDA project to occur at this particular site at this particular time:

African Career, Education and Resource (ACER) Innovation and Catalyst Center (ICC)

2. Finds that that LCDA Project component(s) for which Livable Communities LCDA funding is sought:

- a. Will not occur solely through private or other public investment within the reasonable foreseeable future; and
 - b. Will occur within the term of the grant award (two years for Pre-Development grants, and three years for Development grants,) only if Livable Communities LCDA funding is made available for this project at this time.
3. Authorizes the City Manager to submit on behalf of the City an application for Metropolitan Council Livable Communities LCDA - TOD grant funds for the LCDA project components identified in the application, and to execute such agreements as may be necessary to implement the LCDA Project on behalf of the City.

July 10, 2023

Date

Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by Commissioner
and upon vote being taken thereon, the following voted in favor thereof:
and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

AGENDA



ACTIVE DISCUSSION ITEMS

1. THC Edibles

PENDING LIST FOR FUTURE WORK SESSIONS

1. Upcoming Items
 - Memorial Policy
 - Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
 - Beautification and Public Art Commission
 - Liquor Store 2
 - Organizational Chart-Budget work sessions
 - New and Repeat Type IV Rental License Review (*referred to Housing Commission*)
 - Food Truck Ordinance/License
 - Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
 - Opioid Settlement
 - ARPA Funds
 - Police Labor Study
 - ~~Dog Park~~
 - Grants: Revenues & Expenses
 - Purchasing Policy
 - Commercial Vacant Building Fees
 - Interveners Impact

Kennedy

&

Graven

CHARTERED

Jason M. Hill
700 Fifth Street Towers
150 South Fifth Street
Minneapolis MN 55402

(612) 337-9207 (Direct)
(612) 590-2662 (Cell)
(612) 337-9310 fax
Email: jhill@kennedy-graven.com

MEMORANDUM

TO: Brooklyn Center City Council
Dr. Reginald Edwards, City Manager
Barbara Suci, City Clerk/Assistant City Manager

FROM: Jason M. Hill

DATE: July 6, 2023

RE: Regulation of THC Products Authorized Under Minnesota Statutes, Section 151.72

This memorandum provides information on ways in which the City can regulate the hemp-derived, THC products legalized in 2022 in Minnesota Statutes, section 151.72 (the “Act”). I have also attached a copy of my memorandum dated May 19, 2023 with regard to immediate changes to the Act that were enacted with the recent cannabis legalization bill. As you will note in the attached memorandum, it is important to note that **the Act will automatically be repealed on March 1, 2025**, and therefore, any action taken by the City with regard to regulating THC products under the Act will no longer be effective as of March 1, 2025. Additionally, when retailers of THC products obtain licenses from the state for the sale of lower-potency hemp edibles, which are virtually the same, the regulations may also no longer apply. However, we will need additional guidance from the State before making that determination.

As will be summarized below, the City generally has the following options upon the termination of the existing THC product moratorium:

- Outright prohibition;
- Regulation through licensing of retailers; and
- Regulation through zoning.

Interim Ordinance and Moratorium

The City Council adopted an interim ordinance and moratorium with regard to the sale of THC products on August 22, 2022, which expires on July 25, 2023 in accordance with the terms of the interim ordinance.

Local Regulation

As was the case in 2022, the recent updates to the Act neither explicitly allow nor explicitly prohibit local regulation of the sale of THC products. Therefore, to determine whether a municipality can regulate the sale of THC products, the municipality must have the authority to regulate the sale of THC products and must not be preempted by state law.

A municipality can rely upon its general police and general welfare power to regulate the sale of THC products. The two most applicable avenues through which the municipality can regulate the sale of THC Products is through its licensing or zoning authority.

A. The Act does not expressly preempt local regulation.

The Act does not expressly require a city to allow the sale of THC Products, nor does it restrict a city's ability to regulate such facilities through additional zoning or licensing requirements. Nevertheless, a city cannot enact a local regulation if it conflicts with state law or if the state law fully occupies a particular field of legislation so that there is no room for local regulation.

Any local regulations must not create an irreconcilable conflict with state law, but instead must be merely additional and complementary or in aid and furtherance of the Act. Also, local regulations must not exceed a city's lawful licensing or zoning powers.

Two recent Minnesota Supreme Court cases indicate a deference for local ordinances that provide greater protections than state statutes. Additional licensing and zoning requirements adopted for the purpose of protecting the general welfare and ensuring the sale of THC products are being conducted in accordance with the Act, including that THC products are not being sold to individuals under the age of 21, for example, would be considered greater protections than those included in the Act.

B. Licensing

A city may license a business or activity, either (1) when expressly allowed to do so by state statute; or (2) when implied by statute, such as when a license is necessary for a city to perform its general statutory powers (like preventing public nuisance or protecting the general welfare).

Since there is no express authority for a city to license a business selling THC products, the City must look to an implied authority. The authority granted under the "general welfare" clause allows a city to provide "for the suppression of vice and immorality, the prevention of crime, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the Constitution and laws of the United States or of this state as it shall deem expedient."

While amendments to the Act in 2023 provide additional regulatory structure, consumer protection, and general control of the sale of THC products, the City very clearly has an interest in ensuring that THC products are being sold in the manner provided for in the Act.

A licensing ordinance must be reasonable in its terms and conditions and cannot place unnecessary, unreasonable, or oppressive restrictions that conflict with the state or federal constitution. A licensing ordinance could include application requirements such as:

- terms;
- qualifications;
- bond and insurance requirements;
- hours of operation;
- reasons for denial, including no criminal conviction or license revocations related to controlled substances;
- revocation and suspension of license;
- transferability; license fees;
- limiting the number of licenses;
- requiring licensees to ID purchasers;
- requiring THC products to be sold from behind a counter; and
- identify how the City will conduct compliance checks.

C. Zoning

Zoning controls generally relate to uses of property and not the sale of individual products, so using the City's zoning authority alone may not be an effective way to regulate the sale of THC products. However, cities have used a combination of zoning and licensing provisions to regulate the sale of THC products.

1. Outright prohibition

The City could probably prohibit the sale of THC products if it establishes an appropriate use and has legitimate planning and zoning grounds for the ban. There is no "right" to sell THC products and cities have broad discretion in establishing zoning requirements. An outright ban would likely need to be combined with other general business regulations (e.g., licensing) since the sale of THC products is currently not a primary use of land but can be sold at any retail store.

2. Expressly authorize THC product sales

The City could expressly authorize THC Product sales at dedicated locations, establish the sale of THC products as a dedicated permitted or conditional use, and consider imposing additional regulations on those operations that it does authorize.

If the City chooses to authorize some uses, it should make clear that unauthorized uses are not permitted.

Some examples of additional regulations might include:

- restricting such uses to certain zoning districts;

- capping the total number of THC-related land uses within the City or within certain zoning districts;
- requiring that THC-related facilities not produce noxious odors;
- requiring a minimum distance from certain land uses in addition to schools, such as child-care facilities; places of worship and other religious institutions; health care practitioners. and chemical dependency, alcohol and drug treatment facilities;
- requiring a minimum distance between other THC-related uses; and
- additional restrictions on signage and advertising.

Instead of including these traditional zoning provisions in the zoning code, the City could consider including similar provisions as part of a licensing regulatory scheme (e.g., only issue a license to an THC product business that is located within particular zoning districts). This approach would be more appropriate if the City chooses not to require THC product sales at dedicated business locations.

Additionally, when considering zoning regulations for THC products, the City can also consider adopting similar regulations for similar products once they are licensed by the State as “lower-potency hemp edibles”. This would result in the City treating businesses selling similar products in a similar manner and doing so at the same time to help ensure the City has zoning regulations in place prior to the state issuing licenses.

JMH



Jason Hill
Fifth Street Towers
150 South Fifth Street, Suite 700
Minneapolis, MN 55402
(612) 337-92662 telephone
(612) 337-9310 fax
jhill@kennedy-graven.com

MEMORANDUM

TO: Dr. Reginald Edwards, City Manager
Barbara Suci, City Clerk

FROM: Jason Hill, City Attorney

DATE: May 19, 2023

RE: Summary of Immediately Effective Changes to Minnesota Statutes, section 151.72 (2022 edibles)

The purpose of this memorandum is to provide guidance on the impact of the cannabis legalization bill (the “Act”), to Minnesota Statutes, section 151.72, which is the 2022 legislation that resulted in the expanded sales of hemp-derived THC products in Minnesota.

Unlike the majority of the provisions of the Act, which are effective July 1, 2023, the sections amending Minnesota Statutes, section 151.72, are effective the day after the Governor signs the bill into law. The House passed the bill on May 18, 2023, and the Senate is expected to pass the Act on May 19, 2023. The Governor is expected to sign the Act within three days of it being presented to him, which means that, depending on when the Act is presented to the Governor, the Act could be signed as early as May 19, 2023.

In addition to amending Minnesota Statutes, section 151.72, the Act also amends Minnesota Statutes, section 340A.412 to allow edible cannabinoid products to be sold at exclusive liquor stores the day after the bill is signed into law.

Regulation for Sales

The Act clarifies what types of products are considered under the two categories of product created in 2022: 1) Nonintoxicating Cannabinoids; 2) Edible Cannabinoid Products.

A. Nonintoxicating Cannabinoids

Previous guidance from the Board of Pharmacy provided that Nonintoxicating Cannabinoids could include a wide range of products that could be ingested by humans and animals in many ways. The Act limits nonintoxicating cannabinoid products to products that are meant for external application only, but which do not produce an intoxicating effect when consumed by any route of

administration. The new language explicitly prohibits the sale of nonintoxicating nonedible products meant for vaping or inhaling of smoke, chewing, drinking, swallowing, injection, or by application to the mucus membrane.

B. Edible Cannabinoid Products

The definition of Edible Cannabinoid Products remains the same – a product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoids in combination with food ingredients, and is not a drug – but a number of minor changes in the Act impact the sale Edible Cannabinoid Products.

1. Likeness

In addition to the previous requirements specific to edible cannabinoid products, such as the requirement that they not bear resemblance to a real or fictional person, animal, or fruit that appeals to children, be modeled after a brand of products primarily consumed or marketed to children, or be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or food snack item, they now also must not be substantially similar to a meat food product; poultry food product, or dairy product (the latter two have statutory definitions elsewhere in law).

2. Beverage Serving Size

Edible Cannabinoid Products that are meant to be consumed as a beverage may contain no more than two servings (5mg per serving means a beverage may contain no more than 10 mg per package). The limits for Edible Cannabinoids that are not intended to be consumed as a beverage remain the same – 50 mg of any THC total per package and each serving must be differentiated by wrapping, scoring or other indicator, and must not contain more than 5 mg of any THC.

3. Type of THC Allowed

The Act adds new definitions for “Artificially Derived Cannabinoid” and “Synthetically Derived Cannabinoids”. Artificially Derived Cannabinoids are cannabinoids derived from hemp that are changed after extraction and Synthetically Derived Cannabinoids are substances with a similar chemical structure and have a similar impact to a cannabinoid, but which are not extracted or derived from hemp plants or parts. The Act clarifies that an Edible Cannabinoid Product may contain delta-8 or delta-9 cannabinoids that is extracted or derived from the hemp plant or is an Artificially Derived Cannabinoid but Edible Cannabinoid Products cannot contain a Synthetically Derived Cannabinoid (not derived or extracted from hemp).

4. Display and Storage

The Act requires that all Edible Cannabinoid Products available for retail sale must be displayed behind the checkout counter where the public is not permitted or in a locked case.

This display and storage requirement does not apply to Edible Cannabinoid Products meant to be consumed as beverages.

The Act adds additional and specific age verification requirements. Retailers must verify that a client is over the age of 21 before completing a sale. Proof of age can be established only via: passport, driver's license, Tribal ID, state ID, or instructional permit. Retailers may seize IDs if they believe them to be falsified or used in violation of the law, but must deliver the same to law enforcement within 24 hours of seizure.

5. Exclusive Liquor Store Sales Authorized

In addition to amending Minnesota Statutes, section 151.72, the Act amends Minnesota Statutes, section 340A.412 to specifically allow exclusive liquor stores to sell Edible Cannabinoids Products.

C. On-Site Consumption – Edible Cannabinoid Products and Nonintoxicating Cannabinoids

Products may be sold for on-site consumption if the retailer has an on-sale liquor license under Minnesota Statutes, section 340A. Additionally, products must be served in their original packaging and cannot be sold to patrons who a retailer knows or should reasonably know is intoxicated. Retailers cannot permit the products to be mixed with alcohol, and products that are removed from packaging must be consumed on-site. This change allows the on-site consumption of both nonintoxicating cannabinoid products and edible cannabinoid products, including both traditional edibles and products meant to be consumed as beverages. However, the likely exclusive use of this will be for Edible Cannabinoid Products.

D. Regulations for Testing

The Act adds a definition for “batch”. A batch is a specified amount of product that must meet certain manufacturing requirements, that is then submitted to the testing facility. Each batch must be tested and each label must identify the batch. The Act also requires additional testing and disclosure requirements.

Manufacturers must submit a sample of each batch of products for testing to an accredited, independent laboratory before July 2, 2023. The manufacturer must further disclose to the lab all known information regarding pesticides, fertilizers, solvents, and other foreign materials applied or added to the hemp during manufacturing. The commissioner of health is entitled to review test results at any time.

E. Regulations for Registration

The Act also transitions the state level enforcement of aspects of Minnesota Statutes, section 151.72 to the Minnesota Department of Health.

All individuals selling edible cannabinoid products must register with the Minnesota Department of Health on or before October 1, 2023. Selling without registration after that date is prohibited.

F. Penalties for Violations

The new legislation makes violating or falsifying records to comply with Minnesota Statutes, section 151.72 a gross misdemeanor punishable by a \$3,000 fine, up to one year imprisonment, or both.

Termination of Minnesota Statutes, section 151.72

Under the Act, Minnesota Statutes, section 151.72 will be automatically repealed on March 1, 2025. The Act also contains regulations for products defined as “Lower-Potency Hemp Edibles” which are defined almost exactly the same as Edible Cannabinoid Products, and it is unclear how the transition between Minnesota Statutes, section 151.72 and Edible Cannabinoid Products to Lower-Potency Hemp Edibles will occur between the date of enactment and March 1, 2025.

Conclusion

The amendments to Minnesota Statutes, section 151.72 make clarifications to the types of products that may be sold as Edible Cannabinoid Products, increase testing and labeling requirements, and provides for additional criteria and requirements related to sales. In addition, changes to Minnesota Statutes, section 340A.412 allows Edible Cannabinoid Products to be sold in exclusive liquor stores.

JMH

Council/EDA Work Session

DATE: 7/10/2023

TO: City Council

FROM: Dr. Reggie Edwards, City Manager

THROUGH: N/A

BY: Dr. Reggie Edwards, City Manager

SUBJECT: Upcoming Items

Requested Council Action:

- Memorial Policy
- Special Assessment Policy/Franchise Fees (*referred to Financial Commission*)
- Beautification and Public Art Commission
- Liquor Store 2
- Organizational Chart-Budget work sessions
- New and Repeat Type IV Rental License Review (*referred to Housing Commission*)
- Food Truck Ordinance/License
- Emerald Ash Borer Policy Review (*referred to Park & Rec Commission November*)
- Opioid Settlement
- ARPA Funds
- Police Labor Study
- ~~Dog Park~~
- Grants: Revenues & Expenses
- Purchasing Policy
- Commercial Vacant Building Fees
- Interveners Impact

Background:

Budget Issues:

Antiracist/Equity Policy Effect:

Strategic Priorities and Values: