Council Study Session
City Hall Council Chambers
January 14, 2019

AGENDA

1. City Council Discussion of Agenda Items and Questions - 6 p.m.

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

2. Miscellaneous

3. Discussion of Work Session Agenda Item as Time Permits

4. Adjourn

CITY COUNCIL MEETING
City Hall Council Chambers
January 14, 2019

AGENDA

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

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

2. Invocation - 7 p.m.

Administer Ceremonial Oath of Office

a. Mayor

b. Council members

3. Call to Order Regular Business Meeting

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

4. Roll Call

5. Pledge of Allegiance - Flag Ceremony by Boy Scouts Troop 3403

6. Approval of Agenda and Consent Agenda

The following items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the consent agenda and considered at the end of Council Consideration Items.

a. Approval of Minutes

- Motion to approve the minutes from:

- *December 10, 2018 Study Session*
- *December 10, 2018 Regular Session*

b. Approval of Licenses

- Approve licenses as presented

c. Resolution Designating Official Newspaper

- Approve resolution Designating Official Newspaper for 2019

d. Resolution Designating Depositories of City Funds

- Motion to approve resolution designating depositories of city funds.

e. Resolution Approving the 2019 Fee Schedule

- Approve the resolution approving the 2019 Fee Schedule

f. Resolution Granting Corporate Authority for Signing of Checks and Transactions of Financial Business Matters

- Motion to approve resolution granting corporate authority for signing of checks and transactions of financial business matters.

g. Resolution Opting not to Waive Limited Tort Liability for 2019

- Motion to adopt resolution opting not to waive limited tort liability for 2019

h. Resolution Amending Section 2.94 of City Council Code of Policy to Include Paid-On-Call Firefighters

- Approve the resolution amending Section 2.94 of the City of Brooklyn Center City Council Code of Policies to include Paid-On-Call Firefighters

7. Presentations/Proclamations/Recognitions/Donations

a. Resolution Recognizing Service and Contributions of Mayor Tim Willson

- Motion to approve resolution recognizing service and contribution of Mayor Tim Willson

b. Certificate of Achievement for Excellence in Financial Reporting

- Motion to acknowledge the Certificate of Achievement award for the City of Brooklyn Center's 2017 Comprehensive Annual Financial Report (CAFR)

8. Public Hearings

a. An Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations

- Motion to open public hearing
- Take public input
- Motion to close the public hearing
- Motion to approve the Second Reading, adopt an Ordinance authorizing amendments to Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations

b. An Ordinance Amending Chapter 12 of the City Code of Ordinances Regarding Tenant Protections - Second Reading and Public Hearing

- Motion to open public hearing, take public comment, and close public hearing

- Motion to approve the second reading and adopt an ordinance amending Chapter 12 of the City Code of Ordinances regarding tenant protections and approve a resolution amending the fee schedule relating to Administrative Penalties

- Motion to approve a resolution approving the Summary Publication of the adopted ordinance

c. Liquor License Violation - Jammin Wings

- Motion to open public hearing
- Take public input

- Motion to close public hearing

9. Planning Commission Items

10. Council Consideration Items

a. Resolution Selecting Presiding Officers- Mayor Pro Tem and Acting Mayor Pro Tem

- Appoint the Mayor Pro Tem and Acting President Pro Tem for 2019

b. Resolution Declaring Commitment to the Brooklyn Center City Charter

- Approve resolution Declaring Commitment to the Brooklyn Center City Charter

c. Resolution Recognizing the Contributions of Ethnic Populations and Heritage Celebrations

- Approve a resolution Recognizing the Contributions of Ethnic Populations and Heritage Celebrations

d. An Ordinance Amending Chapter 1 and 35 of the City Code of Ordinances Regarding Bee Keeping

- Motion to approve the first reading of an Ordinance Amending Chapter 1 and 35 of the City Code of Ordinances regarding bee keeping and calling for a public hearing and second reading to be held on February 11, 2019

11. Council Report

12. Adjournment

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Barb Suciu, City Clerk

SUBJECT: Mayor Oath of Office

Requested Council Action:

Background:

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Barb Suciu, City Clerk

SUBJECT: Council members Oath of Office

Requested Council Action:

Background:

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Approval of Minutes

Requested Council Action:

- *Motion to approve the minutes from:*
  - *December 10, 2018 Study Session*
  - *December 10, 2018 Regular Session*

Background:

Strategic Priorities and Values:

Operational Excellence

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

STUDY/WORK SESSION
DECEMBER 10, 2018
CITY HALL – COUNCIL CHAMBERS

CALL TO ORDER

The Brooklyn Center City Council met in Study/Work Session called to order by Mayor Tim Willson at 6:00 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, and Dan Ryan. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, City Engineer Mike Albers, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

Councilmember Ryan requested clarification regarding Agenda Item 8A, Street Utility Improvements Public Hearing, and the issue of a proposed sidewalk.

City Manager Curt Boganey stated a letter was received from a resident who opposes the inclusion of a sidewalk in the Street Utility Improvements plan. He added the approximate cost of the sidewalk, $55,000-60,000, would not influence the overall budget, or special assessments.

Mr. Boganey stated the staff presentation under Agenda Item 8A will go into a little more detail on the sidewalk. He added the sidewalk was included in the original project plan adopted several years ago. He noted eliminating the sidewalk from the Street Utility Improvements Plan would not have a significant impact on the project cost.

Mr. Boganey reviewed Consent Agenda Item 6d, Resolution Adopting Amendments to the Financial Policies Section of the Brooklyn Center City Council Code of Policies. He added the City's rating agencies and Financial Advisor have indicated the amendments are justifiable and should be adopted. He added, however, this issue is not urgent and he recommended the item be removed from the Agenda pending further review by the Budget Commission.

There was a majority consensus among the City Council to remove Consent Agenda Item 6d, Resolution Adopting Amendments to the Financial Policies Section of the Brooklyn Center City Council Code of Policies.

Mr. Boganey reviewed Agenda Item 8e, Liquor License Violation - Jammin Wings. He added the proprietor did not receive notice of the public hearing within the required 10-day advanced notice period. He added the proprietor could agree to waive the advanced notice period and proceed with the hearing. He noted City Staff has been unable to contact the applicant, who may still appear at tonight's meeting.

Mr. Boganey reviewed Item 10a, Approve the Renewal for Jammin Wings Intoxicating Liquor License, which is related to Agenda Item 8e.

Mayor Willson stated the City Council could still decide on this case whether the applicant shows up or not. He added he believes the license for Jammin Wings was approved with the requirement that no violations occur before the license expires on December 31, 2018.

City Attorney Troy Gilchrist stated the applicant must be present for the City Council to revoke or suspend the license. He recommended postponing action on this item if the applicant does not show up. He noted the license would be up for renewal after December 31, 2018, if there have been no violations.

Mayor Willson stated there was a recent violation involving serving alcohol to a minor. He added the license is contingent upon there being no further liquor license violations. He noted this would not preclude the City Council from approving another license.

Mr. Gilchrist stated due process must occur before a determination is made regarding a potential violation of the terms of the license.

Mayor Willson stated this item could be postponed to the City Council's next Regular Meeting, before which the applicant's license will expire by default.

Mr. Gilchrist stated the $1,000 fee can be reinstated but any new proposed penalty would have to wait the full 10 days for due process. He recommended that the City Council could mention this item during the Regular Meeting but not take any action.

Mr. Boganey stated the suspended $1,000 fee will take effect whether the applicant shows up or not, and a time frame is necessary. He added the hearing can be rescheduled to the City Council's January 2019 Regular Meeting, at which time the City Council may impose further penalties if they so choose.

MISCELLANEOUS

CITY COUNCIL RETREAT DISCUSSION

Mr. Boganey stated he would like to add a discussion regarding a City Council retreat to the next Work Session agenda for further dialogue and discussion. He added the City Council has held a retreat at least every two years. He noted the City Council could review the Strategic Plan update, build in team-building activities, discuss City Council policies and procedures, or review the upcoming calendar.

Councilmember Graves stated a retreat is a good idea. She added her preference would be to try a different facilitator. She noted she does not have any complaints about the facilitator at the City Council's last two retreats, but a change might be good. Councilmember Butler agreed.

Mr. Boganey stated City Staff will add a discussion regarding a City Council retreat to the next Work Session Agenda.

DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

PENDING LIST FOR FUTURE WORK SESSIONS

Mayor Willson asked whether the City Council had feedback or comments for Mr. Boganey regarding items on the "Pending List for Future Work Sessions".

Mayor Willson stated he was involved in a project related to Community Development Block Grant (CDBG) funding, which is allocated by Hennepin County.

Mr. Boganey stated that issue is included on the list of future topics because questions were raised during the budget process regarding CDBG funding.

Mr. Boganey requested the City Council's feedback and comments on potential informational presentations from City Staff on a regular basis. He added he serves on the League of Minnesota Cities' Board of Directors, and League staff give a short presentation at Board meetings about current projects and programs. He noted he has a few topics in mind that the City Council might find interesting.

There was a majority consensus among the City Council to add City Staff presentations to the City Council's Regular Meeting Agendas.

ADJOURNMENT

Councilmember Ryan moved and Councilmember Graves seconded to close the Study/Work Session at 6:35 p.m.

Motion passed unanimously.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

REGULAR SESSION
DECEMBER 10, 2018
CITY HALL – COUNCIL CHAMBERS

1. INFORMAL OPEN FORUM WITH CITY COUNCIL

CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in Informal Open Forum called to order by Mayor Tim Willson at 6:45 p.m.

ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, and Dan Ryan. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, Public Works Director Doran Cote, City Engineer Mike Albers, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

Mayor Tim Willson opened the meeting for the purpose of Informal Open Forum.

No one wished to address the City Council.

Councilmember Ryan moved and Councilmember Butler seconded to close the Informal Open Forum at 6:47 p.m.

Motion passed unanimously.

2. INVOCATION

Mayor Willson read the following quote as an Invocation:

"We meet to serve our community, to use our resources wisely and well, to represent all members of our community fairly, and to make decisions that promote the common good. We recognize our responsibility to the past and the future, and the rights and needs of both individuals and community. As trusted servants, we seek blessings on our deliberations, and on our efforts here today, may we act wisely and well."

3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor Tim Willson at 7:00 p.m.

4. ROLL CALL

Mayor Tim Willson and Councilmembers Marquita Butler, April Graves, and Dan Ryan. Councilmember Kris Lawrence-Anderson was absent and excused. Also present were City Manager Curt Boganey, Deputy City Manager Reggie Edwards, Finance Director Nate Reinhardt, City Engineer Mike Albers, Community Development Director Meg Beekman, Police Chief Tim Gannon, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

6. APPROVAL OF AGENDA AND CONSENT AGENDA

Mayor Willson stated the City Council agreed to remove Consent Agenda Item 6d from the Regular Meeting Agenda, for additional review by the Financial Commission.

Councilmember Ryan moved and Councilmember Graves seconded to approve the Agenda and Consent Agenda, with the removal of Consent Agenda Item 6d, Resolution Adopting Amendments to the Financial Policies Section of the Brooklyn Center City Council Code of Policies, and the following Consent items were approved:

6a. APPROVAL OF MINUTES

1. November 26, 2018 – Study Session
2. November 26, 2018 – Regular Session
3. November 26, 2018 – Work Session
4. December 3, 2018 – Special Meeting

6b. LICENSES

FIREWORKS DISPLAY

Pyrotecnico Fireworks	TopGolf 6420 North Camden Avenue December 31, 2018 Midnight

GASOLINE SERVICE STATION LICENSES

Holiday Stationstores, LLC	420 66th Avenue Brooklyn Center MN 55430

LIQUOR – ON-SALE 3.2 PERCENT MALT LIQUOR

Bryant Wings	1180 Shingle Creek Crossing

dba Wings Stop	Brooklyn Center MN 55430
Chipotle Mexican Grill	5711 Xerxes Avenue N
	Brooklyn Center MN 55430
Davanni's, Inc.	5937 Summit Drive
dba Davanni's Pizza & Hot Hoagies	Brooklyn Center MN 55430
Rose Garden LLC	6090 Shingle Creek Parkway
dba Rose Garden	Brooklyn Center MN 55430

LIQUOR – ON-SALE CLUB

Duoos Brothers	6110 Brooklyn Boulevard
dba American Legion Post 630	Brooklyn Center MN 55429

LIQUOR – ON-SALE INTOXICATING

2200 Beverage Management	2200 Freeway Boulevard
dba American Legion Post 630	Brooklyn Center MN 55430
Apple Minnesota LLC	1400 Shingle Creek Crossing
dba Applebee's Neighborhood Grill & Bar	Brooklyn Center MN 55430
Brooklyn Hotel Partners, LLC	6300 Earle Brown Drive
dba Embassy Suites	Brooklyn Center MN 55430
Flik International Corporation	6155 Earle Brown Drive
dba Earle Brown Heritage Center	Brooklyn Center MN 55430
Jambo Africa, Inc.	1601 Freeway Boulevard
Jambo Africa	Brooklyn Center MN 55430
TopGolf USA	6420 Camden Avenue N
dba: TopGolf	Brooklyn Center MN 55430

LIQUOR – ON-SALE SUNDAY

2200 Beverage Management	2200 Freeway Boulevard
dba: Rise by Elevation	Brooklyn Center MN 55430
Apple Minnesota LLC	1400 Shingle Creek Crossing
dba Applebee's Neighborhood Grill & Bar	Brooklyn Center MN 55430
Brooklyn Hotel Partners, LLC	6300 Earle Brown Drive
dba Embassy Suites	Brooklyn Center MN 55430
Duoos Brothers	6110 Brooklyn Boulevard
dba American Legion Post 630	Brooklyn Center MN 55429
Flik International Corporation	6155 Earle Brown Drive
dba Earle Brown Heritage Center	Brooklyn Center MN 55430
Jambo Africa, Inc.	1601 Freeway Boulevard
Jambo Africa	Brooklyn Center MN 55430
TopGolf USA	6420 Camden Avenue N
dba: TopGolf	Brooklyn Center MN 55430

LIQUOR – ON-SALE WINE

Brooklyn Center Restaurant Inc.	5524 Brooklyn Boulevard
dba 50's Grill	Brooklyn Center MN 55429
Davanni's, Inc.	5937 Summit Drive

dba Davanni's Pizza & Hot Hoagies	Brooklyn Center MN 55430
Rose Garden LLC dba Rose Garden	6090 Shingle Creek Parkway Brooklyn Center MN 55430

MECHANICAL CONTRACTORS

C&C HVAC, Inc.	16730 242nd Avenue NW Big Lake MN 55309
RTS Mechanical LLC	725 Tower Drive Hamel MN 55340
St. Paul Plumbing & Heating Company	640 Grand Avenue St. Paul MN 55105

PUBLIC DANCE

Jambo Africa	1601 Freeway Boulevard Minneapolis MN 55430
Jammin' Wings	2950 Freeway Boulevard Brooklyn Center MN 55430

SIGN CONTRACTOR

Dandy Signs & Graphics	806 Como Avenue St. Paul MN 55103
Leroy Signs, Inc.	6325 Welcome Avenue N Brooklyn Park MN 55429

TOBACCO PRODUCTS

Holiday Stationstores, LLC	420 66th Avenue N Brooklyn Center MN 55430
Holiday Stationstores, LLC	6890 Shingle Creek Parkway Brooklyn Center MN 55430
Northern Tier Retail LLC dba Speedway #3192	6950 Brooklyn Boulevard Brooklyn Center MN 55429
Northern Tier Retail LLC dba Speedway #4058	1901 57th Avenue N Brooklyn Center MN 55430
Northern Tier Retail LLC dba Speedway #4160	6545 West River Road Brooklyn Center MN 55430
Royal Tobacco	5625 Xerxes Avenue N Brooklyn Center MN 55430
Walmart, Inc.	1200 Shingle Creek Parkway Brooklyn Center MN 55430

RENTAL

RENEWAL (TYPE IV – one-year license)

5301 Russell Avenue N	Nedzad Ceric
5025 Drew Avenue N	Ryan Partners, LLC/Ryan Schmidt
5432 Dupont Avenue	Xiangming Guan
5455 Emerson Avenue N	Elbrus Management

RENEWAL (TYPE III – one-year license)

4204 Lakebreeze Avenue	Todd Bertleson/CPP3 LLC
3818 61st Avenue N	Sherman Yih Feng Kho
5207 Boulder Lane	Ross Herman
5025 Drew Avenue N	Ryan Partners, LLC/Ryan Schmidt
6820 Freemont Place N	Sharon McGary
6908 Unity Avenue N	Xingfu Chen

RENEWAL (TYPE II – two-year license)

3218 63rd Avenue N	My Truong
6919 France Avenue N	Benjamin Hermantin
6800 Freemont Place N	Sharon McGary
6413 June Avenue N	Douglas Allen Wahl

RENEWAL (TYPE I – three-year license)

6331 Beard Avenue N	CCFI Holding LLC
6221 Shingle Creek Parkway	Steven Plotz
Crest Apartments	
2113 55th Avenue N	Invitation Homes
3000 62nd Avenue N	Dan Soffa
1401 72nd Avenue N	Chad Tessmer
6501 Brooklyn Drive	Dawn M. Araya
2023 Brookview Drive	FYR SFR BORROWER LLC
5814 Ewing Avenue	Michele Nyarecha
6734 France Avenue N	Alexander Yang
5410 Gerard Avenue N	Douglas Allen Wahl
5351 Irving Avenue N	Douglas Allen Wahl
4207 Lakeside Avenue #327	Rachel Petz
6330 Orchard Avenue N	Mark Kohls
7169 Unity Avenue N	Soye Chalte
5925 Washburn Avenue N	Cheng Lor
4419 Winchester Lane	Easton Homes LLC

6c. 2019 CITY COUNCIL MEETING SCHEDULE

6d. RESOLUTION ADOPTING AMENDMENTS TO THE FINANCIAL POLICIES SECTION OF THE BROOKLYN CENTER CITY COUNCIL CODE OF POLICIES (This item was removed from the Consent Agenda and referred to the Finance Commission for recommendation.)

6e. RESOLUTION NO. 2018-205 DIRECTING STAFF TO RECLASSIFY CENTERBROOK GOLF COURSE TO A GOVERNMENT SPECIAL REVENUE FUND

6f. RESOLUTION NO. 2018-206 TO FORGIVE THE REMAINING INTERFUND ADVANCE BETWEEN THE CENTERBROOK GOLF COURSE FUND AND CAPITAL IMPROVEMENTS FUND

6g. RESOLUTION NO. 2018-207 APPROVING CHANGE ORDER NO. 1, ACCEPTING WORK PERFORMED AND AUTHORIZING FINAL PAYMENT, PROJECT NO. 2017-14, LIFT STATION NO. 1 REHABILITATION AND WETWELL IMPROVEMENTS

6h. RESOLUTION NO. 2018-208 APPROVING A CONTRACT FOR SERVICES BETWEEN THE CITY OF BROOKLYN CENTER AND THE METROPOLITAN CONSORTIUM OF COMMUNITY DEVELOPERS FOR THE OPEN TO BUSINESS PROGRAM

6i. RESOLUTION NO. 2018-209 ACCEPTING WORK PERFORMED AND AUTHORIZING FINAL PAYMENT, PROJECT NO. 2017-05, EVERGREEN PARK AREA SAFE ROUTES TO SCHOOL TRAIL AND SIDEWALK IMPROVEMENTS

6j. RESOLUTION NO. 2018-210 SETTING SALARIES FOR CALENDAR YEAR 2019

Motion passed unanimously.

7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS

-None.

8. PUBLIC HEARINGS

8a. RESOLUTIONS REGARDING INTERSTATE AREA STREET AND UTILITY IMPROVEMENTS

Public Works Director Doran Cote introduced this item. He stated the Interstate Area Street and Utility Improvements project requires both an improvement public hearing and an assessment public hearing. He noted a unanimous vote will be required due to the absence of Councilmember Lawrence-Anderson.

Mr. Cote stated City Staff had not received any resident requests to appeal the special assessments. He added special assessments will be removed from the assessment role for further evaluation if an objection is raised.

City Engineer Mike Albers stated the Interstate Area Street and Utility Improvements Project is a continuation of the City's Capital Improvement Program, which was initiated in 1993. He

added, to date, 92.5 miles or 88% of the City's streets have been reconstructed, with 13.1 miles remaining, for a total cost of approximately$201 million

Mr. Albers stated the proposed project includes improvements to sanitary sewer, street lights, and other amenities in this area. He added approximately 95% of the sanitary sewer system has root intrusion, and some pipe sections have cracks and sags. He noted replacement of the sanitary sewer system in this area is recommended, including private lines to the mains.

Mr. Albers stated the proposed project also includes removal and replacement of storm structures and pipes, extension of sump catch basins, improved water quality treatment, rain gardens, and other improvements. He added new curb and gutter are proposed, with full depth pavement and aggregate base, as well as sidewalk improvements including pedestrian curb ramps at certain locations.

Mr. Albers stated a new 6-foot wide concrete sidewalk is proposed as part of the project. He added the sidewalk would run along the north side of 62nd Avenue to Lyndale Avenue and would be maintained and plowed by the City. He noted City sidewalks are a proven appreciated asset, and encourage biking, walking and use of public transportation.

Mr. Albers requested City Council feedback and comment on the proposed sidewalk.

Mr. Albers stated driveways that are disturbed will be restored with a 5-foot concrete apron, and boulevards will be replaced with sod and topsoil. He added any trees that were removed will be replaced. He noted 11 free-standing street lights will be replaced with fiberglass poles and LED light fixtures.

Mr. Albers stated residents in the project area will have access to their property every evening. He added other inconveniences, such as noise and dust, will be addressed during the project timeline.

Mr. Albers stated there is a unique combination of funding sources for the project, including special assessments, sanitary sewer utility funds, water utility funds, storm drainage utility funds, street light utility funds, and street reconstruction funds. He reviewed the total assessment of $6010 per property with payment options. He noted the project will be under construction from April 2019 through Fall 2019.

Mr. Albers stated City Staff recommends that the City Council conduct the required public hearings and authorize the proposed Interstate Area Street and Utility Improvements Project and certify special assessments.

Councilmember Ryan requested clarification regarding the total cost of the proposed sidewalk at 62nd Avenue. Mr. Albers stated the sidewalk cost is projected at $55,000 to be funded from the

Construction Fund. He added the project cost will not be reduced by much if the sidewalk is removed.

Councilmember Graves moved and Councilmember Ryan seconded to open the Public Hearing at 7:22 p.m.

Motion passed unanimously.

Wendell Holm, 814 62nd Avenue N, stated he is opposed to the sidewalk on his property, as the slope in his front yard is steep. He added power poles and trees will have to be moved, and snow plows will push snow into his driveway. He noted he believes the sidewalk will cause many problems.

Mayor Willson asked City Staff for clarification regarding power poles. Mr. Albers stated the existing power poles will not be moved from their existing location.

Mike Baertschy, 520 62nd Avenue N, stated his property will also be impacted by the sidewalk. He asked how this will affect the width of the street. He added a 6-foot sidewalk seems excessive, especially since it leads to a dead-end at the freeway wall. He asked if there will be a sidewalk along Lyndale Avenue.

Mayor Willson stated the streets will be 30-feet wide, with 30 feet of right-of-way. Mr. Albers stated the City Council adopted a 6-foot standard width for sidewalks in 2013, to provide more space for pedestrians and bicycles, and increase accessibility in compliance with the Americans with Disabilities Act (ADA). He added the proposed sidewalk will provide a connection to Lilac Drive N and Lyndale Avenue N. He noted a sidewalk on Lyndale Avenue is not part of the proposed project.

Mr. Baertschy thanked City Staff for the very professional presentation.

Barbara Ganz, 6139 Bryant Avenue N, stated she supports the sidewalk, as she sees many school-age children walking in the middle of her street on their way to school. She expressed concern for their safety. She added the sidewalk will be a feeder for students who walk along Dupont Avenue N to get to school.

Ms. Ganz asked whether the City will be responsible for improving sewer lines from the street to property lines, and how many properties could be affected. She asked whether they might require additional mitigation after the project is complete, which would be an additional expense to residents.

Mr. Willcox requested clarification from Mr. Albers. Mr. Albers stated the City replaces the utility line from the main to the property line, and if any roots or obstruction are noticed, the homeowner is notified. He added it is up to the individual homeowner if they wish to address

any additional repair. He noted he will stay and talk to Ms. Ganz after the public Hearing to address her concerns.

Blaine McCutcheon, 6131 Aldrich Avenue N, stated Aldrich Avenue has had curb and gutter replaced a few times and is in pretty good condition. He asked whether complete reconstruction is necessary when curbs are in good shape. He added he supports new LED light fixtures. He noted the neighborhood has noise and pollution from the surrounding freeways, and recently the neon lights from TopGolf have been visible from the neighborhood.

Tom Sullivan, 6242 Lilac Drive N, stated he is concerned about the speed of traffic on Bryant Avenue N, and whether anything can be done at the 62nd Avenue N intersection to reduce traffic speeds. He asked whether he will be able to get his vehicles out of his driveway on the weekends.

Mayor Willson stated the contractor will work with residents to ensure they have access to their driveways.

Mr. Sullivan asked whether cameras will be used on every sewer line. Mayor Willson stated the lines will not be inspected past the right of way. Mr. Albers stated City Staff will look at utility lines as part of the pre-project evaluation process.

Mr. Sullivan asked whether residents will be responsible for maintaining rain gardens. Mayor Willson confirmed this.

Mr. Sullivan asked whether the contractor will replace sprinkler systems. Mr. Albers confirmed this.

Mr. Sullivan asked whether trees will be replaced on his property along Lilac Drive N. Mayor Willson stated only trees that were removed as part of the project will be replaced.

Ms. Ganz returned to the podium and asked whether the water main trenches will be dug to the same depth in all locations, and which streets will be done first, as she lives on a corner. Mayor Willcox stated a schedule has not been set. Mr. Albers stated a pre-construction meeting will be held with the neighborhood to review the construction process.

Mr. McCutcheon returned to the podium, and stated his driveway is near the parking lot entrance to the Hmong Community Alliance Church. He asked whether sewers are replaced to support a higher level of use of sewer and water, and whether the area might be rezoned. Mayor Willson stated sewer and water capacity is based on the City's Comprehensive Plan, and a high-density development is not planned for this residential neighborhood.

Mr. McCutcheon asked whether the increased traffic from other ongoing highway projects, like Highway 252 and Highway 94, will affect this project.

Mayor Willson stated the Minnesota Department of Transportation will be adding stop lights on Humboldt Avenue N, and signage directing vehicles to use Humboldt Avenue.

Mr. McCutcheon asked whether commuter bike lanes on the streets are planned. Mayor Willson stated that is not part of the project plan.

Councilmember Ryan moved and Councilmember Graves seconded to close the Public Hearing at 7:53 p.m.

Motion passed unanimously.

Mr. Albers stated, regarding curb replacement, the grade along streets will be adjusted which impacts the majority of curb and gutter. He added it would not be practical to save all the curb and gutter.

Mr. Albers stated, regarding traffic speed, no bump-outs are planned as part of this project, but the Traffic Speed Committee can evaluate these types of concerns.

Councilmember Graves stated, regarding the proposed sidewalk, she believes the safety of children and pedestrians is important. She added, however, she is empathetic to things changing from what people are used to. She expressed concern that the sidewalk ends at a dead end. She re-iterated the importance of safety for students walking to school.

Mayor Willson stated it will be more expensive and disruptive to add the sidewalk after the project is completed. He noted there is a City-wide policy to add sidewalks wherever possible to facilitate pedestrian traffic. He expressed his support of the sidewalk as proposed.

RESOLUTION NO. 2018-211 ORDERING THE INTERSTATE AREA STREET STORM DRAINAGE AND UTILITY IMPROVEMENTS, AND AUTHORIZING PREPARATION OF PROJECT PLANS AND SPECIFICATIONS

Councilmember Ryan moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2018-211 Ordering the Interstate Area Street Storm Drainage and Utility Improvements, and Authorizing Preparation of Project Plans and Specifications.

Motion passed unanimously.

RESOLUTION NO. 2018-212 CERTIFYING SPECIAL ASSESSMENTS FOR THE PROJECT TO THE HENNEPIN COUNTY TAX ROLLS

Councilmember Graves moved and Councilmember Ryan seconded to open the Public Hearing at 8:01 p.m.

Motion passed unanimously.

Mayor Willson stated residents who wish to contest the special assessment will be removed from the list and referred to City Staff for review based upon the resident's complaint.

Barbara Ganz, 6139 Bryant Avenue N, asked what interest rate would be if she chooses to defer payment of the special assessment, and whether it will affect the equity of her property. She added she is unsure of the impact of the deferment.

Mayor Willson stated Ms. Ganz' questions can be answered by City Staff. Mr. Boganey agreed to provide the interest rate. He added Ms. Ganz is not contesting the special assessment, but rather asking for clarification regarding deferment. He noted Ms. Ganz' property can remain on the assessment roll.

Blaine McCutcheon, 6131 Aldrich Avenue N, asked whether he can contest part of the assessment. He added he does not believe curbs and gutters on his street need to be replaced, as they are in good condition.

Mayor Willcox stated the special assessment is for the whole street and not just a single property. He added Mr. McCutcheon can contest the special assessment.

Mr. Boganey stated standard assessments are applied to each property. He asked whether Mr. McCutcheon is contesting the assessment.

Mr. McCutcheon stated he is not contesting the assessment amount but rather an aspect of the project and removal of good infrastructure. Mr. Boganey stated the project was already approved by the City Council.

Ken Lundgren, 5927 Bryant Avenue N, requested information on applying for a deferment plan. Mr. Boganey stated residents can call the Public Works Department (Tel: 763-569-3340) for further information regarding special assessment deferment. He added City Staff can also contact the resident with this information.

Councilmember Ryan moved and Councilmember Butler seconded to close the Public Hearing at 8:13 p.m.

Motion passed unanimously.

Councilmember Ryan moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2018-212 Certifying Special Assessments for the Project to the Hennepin County Tax Rolls.

Motion passed unanimously.

8b. RESOLUTION NO. 2018-213 AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF ITS CONDUIT MULTIFAMILY HOUSING REVENUE BONDS

RELATING TO THE UNITY PLACE PROJECT; ADOPTING A HOUSING PROGRAM PURSUANT TO MINNESOTA STATUTES, CHAPTER 462C; APPROVING THE FORMS AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE BONDS AND RELATED DOCUMENTS; PROVIDING FOR THE SECURITY, RIGHTS AND REMEDIES WITH RESPECT TO THE BONDS; AND GRANTING APPROVAL FOR CERTAIN OTHER ACTIONS WITH RESPECT THERETO

Finance Director Nate Reinhardt introduced this item. He stated Unity Group has requested the issuance of conduit bonds for a re novation project at Unity Place, an existing 112-unit affordable rental townhomes development. He added the issuance of conduit debt does not affect the City's credit rating.

Dan Walsh, Community Housing Development Corporation (CHDC), 614 North 1st Street, Minneapolis, stated his organization has owned Unity Place since the early 1990s. He added he is coordinating the project re-finance and other related proposals. He noted the mission of is to sustain high-quality affordable homes and enhance affordable community development.

Mr. Walsh stated conduit housing revenue bonds will allow the project to obtain Federal low-income housing tax credits. He reviewed proposed renovations to Unity Place: improved parking lot access, a new central courtyard and playground, replacement and addition of interior amenities; addition of gutters and downspouts; and landscape regrading. He added lighting, air conditioning units, washers, dryers and furnaces will be replaced with high-efficiency models. He noted a common community building is planned, that will house management offices, community gathering rooms, a fitness room, and smaller meeting room.

Councilmember Ryan stressed the importance of ensuring that the bond issuance is not an obligation taken on by the City.

Councilmember Graves asked whether trash and recycling is included with rental costs. Mr. Walsh confirmed this. He added the existing trash enclosures re in good condition and require very little upgrading.

Councilmember Graves expressed concern that there will be enough trash receptacles throughout the property to reduce the amount of litter in open spaces and the nearby creek. Mr. Walsh agreed, adding there will be additional landscaping and signage, as well as a new trash enclosure near the proposed central building and courtyard.

Mayor Willson asked whether Unity Place has considered organic recycling stations, which will soon be a State mandate. Mr. Walsh stated there is not currently a composting area on the site, but he agreed to look into it.

Councilmember Graves asked if there will be a community garden. Mr. Walsh confirmed this, adding a series of raised planting beds are planned for the area to the northeast of the sports field, with access to water.

Mr. Boganey stated it is anticipated that there will be enough funding over time to cover the improvements that are being proposed. Mr. Walsh agreed, adding a 20-year capital needs assessment is planned.

Councilmember Ryan stated this is a Section 8 property. He asked whether rent assistance is linked to the unit or if there are thresholds. Mr. Walsh stated the maximum income of a resident will be 60% of the median income, when the project is complete.

Mayor Willson stated there is a distinct shortage of affordable housing across the metropolitan area, and he is glad to see that this property will remain affordable.

Councilmember Graves moved and Councilmember Ryan seconded to open the Public Hearing at 8:33 p.m.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Ryan moved and Councilmember Butler seconded to close the Public Hearing at 8:34 p.m.

Motion passed unanimously.

Councilmember Graves moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2018-213 Authorizing the Issuance, Sale and Delivery of its Conduit Multifamily Housing Revenue Bonds Relating to the Unity Place Project; Adopting a Housing Program Pursuant to Minnesota Statutes, Chapter 462c; Approving the Forms and Authorizing the Execution and Delivery of the Bonds and Related Documents; Providing for the Security, Rights and Remedies with Respect to the Bonds; and Granting Approval for Certain Other Actions with Respect Thereto.

Motion passed unanimously.

8c. RESOLUTIONS ADOPTING UTILITY RATES FOR 2019

Mr. Reinhardt stated a Public Hearing is required to adopt 2019 utility rates, which will take effect January 1, 2019. He added utility improvements rates are primarily driven by proposed utility infrastructure investments over next two years. Mr. Reinhardt reviewed the 2019 proposed rate changes for the utility funds, which have not increased in the past 9 years.

Mr. Reinhard stated a proposed change is the inclusion of a water meter charge for new water meters only. He added there is no charge to the resident if the meter is defective. He noted an increase from $99 to $149 is proposed, which is still below the actual cost to the City of $230 per meter plus associated costs.

Councilmember Graves expressed concern that a resident might be inadvertently charged twice for a water meter. Mr. Reinhardt stated a resident would only be charged for a new water meter.

Councilmember Graves asked why utilities are so expensive in New Hope. Mr. Boganey stated he believes the City of New Hope purchases their water from the City of Minneapolis.

Mr. Boganey stated, regarding water meter charges, City Staff has found it difficult to maintain the administrative process for keeping track water meter refunds. He added the proposed change will streamline this process.

Councilmember Graves moved and Councilmember Butler seconded to open the Public Hearing at 8:50 p.m.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Ryan moved and Councilmember Butler seconded to close the Public Hearing at 8:51 p.m.

Motion passed unanimously.

RESOLUTION NO. 2018-214 ADOPTING 2019 WATER UTILITY RATES, FEES AND CHARGES

Councilmember Graves moved and Councilmember Ryan seconded to adopt RESOLUTION NO. 2018-214 Adopting 2019 Water Utility Rates, Fees and Charges.

Motion passed unanimously.

RESOLUTION NO. 2018-215 ADOPTING 2019 SEWER UTILITY RATES, FEES AND CHARGES

Councilmember Ryan moved and Councilmember Graves seconded to adopt RESOLUTION NO. 2018-215 Adopting 2019 Sewer Utility Rates, Fees and Charges.

Motion passed unanimously.

RESOLUTION NO. 2018-216 ADOPTING 2019 STORM SEWER UTILITY RATES, FEES AND CHARGES

Councilmember Graves moved and Councilmember Butler seconded to adopt RESOLUTION NO. 2018-216 Adopting 2019 Storm Sewer Utility Rates, Fees and Charges.

Motion passed unanimously.

RESOLUTION NO. 2018-217 ADOPTING 2019 STREET LIGHT RATES, FEES AND CHARGES

Councilmember Ryan moved and Councilmember Graves seconded to adopt RESOLUTION NO. 2018-217 Adopting 2019 Street Light Rates, Fees and Charges.

Motion passed unanimously.

RESOLUTION NO. 2018-218 ADOPTING 2019 RECYCLING RATES AND CHARGES

Councilmember Butler moved and Councilmember Graves seconded to adopt RESOLUTION NO. 2018-218 Adopting 2019 Recycling Rates and Charges.

Motion passed unanimously.

8d. ORDINANCE NO. 2018-16 AMENDING CHAPTER 35 OF THE CITY CODE OF ORDINANCES REGARDING ELEMENTARY AND SECONDARY SCHOOL INTERIM USE IN THE CITY'S COMMERCIAL AND CENTRAL COMMERCE OVERLAY DISTRICTS

Community Development Director Meg Beekman introduced this issue. She stated Brooklyn Center Community Schools is seeking a temporary location for students during a school construction project. She added this Ordinance amendment would create a new interim educational use component within the Commerce or Central Commerce Overlay District. She noted this is the second reading of the proposed Ordinance amendment.

Mayor Willson clarified that this is not a blanket approval. Ms. Beekman agreed, adding the amendment creates a process through which individual allowances could be made.

Councilmember Ryan moved and Councilmember Butler seconded to open the Public Hearing at 9:01 p.m.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Graves moved and Councilmember Butler seconded to close the Public Hearing at 9:02 p.m.

Motion passed unanimously.

Councilmember Ryan moved and Councilmember Graves seconded to approve second reading and adopt ORDINANCE NO. 2018-16 Amending Chapter 35 of the City Code of Ordinances Regarding Elementary and Secondary School Interim Use in the City's Commercial and Central Commerce Overlay Districts and approve a summarized version of the ordinance for publication.

Motion passed unanimously.

Mayor Willson thanked City Staff for their excellent work and flexibility in working with the community to find creative solutions that benefit its residents.

8e. LIQUOR LICENSE VIOLATION – JAMMIN' WINGS

Mayor Willson asked whether the owner was in attendance. Hearing no response, Mayor Willson indicated the public hearing would not be held this evening. He noted at this time, the City Council can deliberate or consider a motion to approve the liquor license for Jammin' Wings.

Councilmember Graves moved and Councilmember Butler seconded to approve the renewal for Jammin' Wings' Intoxicating Liquor License and Sunday Sales Liquor License.

Motion passed unanimously.

Mayor Willson sated there will be a public hearing for a license violation at a future date, possibly the next City Council meeting.

Councilmember Ryan stated the property owner has an outstanding fine due to compliance check failure. He asked whether the City Council could re-examine issuance of the liquor license if they are not satisfied with resolution of the compliance failure.

Mr. Gilchrist stated renewal of the liquor license does not address or relieve the property owner from the outstanding penalty due to a second violation, or the potential action on that violation that will be considered at the next meeting.

9. PLANNING COMMISSION ITEMS

-None.

10. COUNCIL CONSIDERATION ITEMS

10a. APPROVE THE RENEWAL FOR JAMMIN' WINGS INTOXICATING LIQUOR LICENSE AND SUNDAY SALES LIQUOR LICENSE

Mayor Willson noted this item was acted upon during consideration of Agenda Item 8e.

10b. ORDINANCE AMENDING CHAPTER 23 OF THE BROOKLYN CENTER CITY CODE REGARDING HOSPITALITY ACCOMMODATIONS

Police Chief Tim Gannon stated the proposed Ordinance amendment is an attempt to reduce the number of police calls for service and level of crime at local hotels. He reviewed requested and implemented changes to the existing ordinance, including a change from the use of "transient" to "hospitality". He added an enhanced point system is proposed to track service calls.

Police Chief Gannon stated City Staff recommends City Council approval of the first reading of the Ordinance amendment, and to schedule the public hearing and second reading on January 14, 2019.

Councilmember Graves requested clarification regarding City Staff who will be responsible for maintaining hotel contact information. Mr. Boganey stated the City Clerk oversees the current licensing program. Police Chief Gannon stressed the importance of maintaining contact information for hotel management and hierarchy, but not for each employee.

Councilmember Graves asked whether hotels may perceive a loss of revenue if customers are required to have a credit or debit card to reserve a room. Police Chief Gannon stated the issue is alleviation of anonymity, and most hotels require a credit card or security deposit to hold a reservation. He added City Staff will send a notice to local hotels and schedule meetings to review the new Ordinance.

Councilmember Ryan moved and Councilmember Graves seconded to approve the first reading of Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations, and to schedule the public hearing and second reading for January 14, 2019.

Motion passed unanimously.

10c. ORDINANCE AMENDING CHAPTER 12 OF THE CITY CODE OF ORDINANCES REGARDING TENANT PROTECTIONS

Ms. Beekman introduced this issue. She requested the City Council's consideration of the first reading of the Tenant Protection Ordinance, which will create new legally binding housing and protect tenants who live in affordable housing, as well as put policies in place to address preservation of naturally occurring affordable housing.

Ms. Beekman stated the tenant protection Ordinance is designed to mitigate displacement of renters. She noted, under the proposed Ordinance, a landlord must provide cause for non-renewal within 90 days, and landlords are limited as to what causes they can use to non-renew tenants.

Ms. Beekman stated, under the proposed Ordinance amendment, rental property owners will be required to notify tenants within 30 days of purchase if they intend to make changes to the lease. She added they must wait 90 days before changes can be made. She noted this effectively freezes the terms of the lease for three months, allowing renters time to relocate if they need to.

Ms. Beekman stated this Ordinance amendment would be administered by the City's existing rental licensing program and landlord/tenant disputes would be dealt with through Housing Court. She added an existing property owner who plans to sell their property may choose to vacate the building prior to sale or make changes to a lease prior to sale, and these things would not be covered by the Ordinance. She noted several metropolitan cities have adopted this type of Ordinance but have not yet needed to take action to enforce it.

Councilmember Graves moved and Councilmember Butler seconded to approve the first reading of Ordinance Amending Chapter 12 of the City Code of Ordinances Regarding Tenant Protections, and to schedule the public hearing and second reading for January 14, 2019.

Mayor Willson stated he supports the Ordinance amendment but expressed trepidation that there is no historical data to support it. He added the proposed Ordinance amendment addresses a problem that does not currently exist. He noted the City has historically enacted Ordinance amendments only when an issue that is affecting the community needs to be corrected.

Councilmember Ryan stated good public policy is a matter of experimentation. He added the proposed Ordinance amendment will protect moderate to low-income renters from potential changes to properties that may affect them. He added it may become a deterrent for investors and potential development, but the issue can be reviewed if that occurs.

Councilmember Graves stated she sees the Ordinance amendment as a preventative measure. She asked for clarification regarding the Housing Commission's recommendations regarding percentages, and potential consequences. She expressed confidence in the ability of City Staff to provide a preventative solution while preserving investment in Brooklyn Center.

Motion passed unanimously.

11. COUNCIL REPORT

Councilmember Ryan reported on his attendance at the following and provided information on the following upcoming events:

- November 29, 2018 – attended League of Minnesota Cities and Metropolitan Council Joint Annual Meeting in Golden Valley
- December 2, 2018 – attended and volunteered at Brooklyn Center Lions' Holly Sunday festivities at the Civic Center
- December 3, 2018 – met with City Manager Curt Boganey

- December 4, 2018 – attended Business Champions for Youth luncheon at Edinburgh USA, featuring BrookLynk, an organization that assists the community's young people in finding jobs and internships
- December 5, 2018, participated in 2020 U.S. Census forum and discussion.
- December 11, 2018 – will attend Highway 252 Improvements Open House at 5:30 p.m. at Evergreen Park Elementary School, 7020 Dupont Avenue N

Councilmember Graves reported on her attendance at the following events:
- November 27, 2018 – attended Think Again Brooklyns event at Brooklyn Park City Hall: "Keeping People with Disabilities in their Homes with their Families"
- November 30, 2018 – attended football banquet at Concordia College, St. Paul, related to her work regarding consent issues
- December 4-6, 2018 – attended training for National Incident Management System (NIMS)
- December 8, 2018 – attended Women Winning panel on getting started as a candidate

Councilmember Butler stated she has been on vacation for the past few weeks. She added her son attended Holly Sunday with his grandparents, and they loved it. She thanked Brooklyn Center City Staff for the successful event.

Mayor Willson reported on his attendance at the following events:
- November 27, 2018 – attended Rotary Club lunch
- November 29, 2018 – attended Blue Line Corridor Management Committee Meeting.
- December 3, 2018 – attended City Council Special Meeting and Budget Approval
- December 4, 2018 - Rotary lunch at the Rise
- December 6, 2018 – unable to attend the Dangerous Dog Hearing

Councilmember Ryan expressed his appreciation to Mayor Willson for twelve years of excellent service to the City of Brooklyn Center. He added the accomplishments of the City Council are due in part to Mayor Willcox's dedication and leadership. He thanked Mayor Willcox for his service and wished him well in his retirement. He noted he hopes Mayor Willcox will consider an appointment to a City Commission.

Councilmember Graves added her well wishes and thanks, adding it has been a pleasure to serve with Mayor Willson for the past four years.

Mr. Boganey stated the City Council's first Regular Meeting in January 2019 will include a Resolution of Recognition to Mayor Willson for his accomplishments and years of service.

Mr. Boganey stated many positive changes have happened in Brooklyn Center over the past few years, and Mayor Willson's leadership, as well as the hard work of the Councilmembers, has resulted in achievements and accomplishments. He commended Mayor Willcox, adding he can be proud of his work as the Mayor of Brooklyn Center for the past twelve years.

Mayor Willson thanked the Councilmembers and City Staff. He added the City Council will move forward with important changes and policies. He noted he looks forward to great things from the City Council in the future.

12. ADJOURNMENT

Councilmember Ryan moved and Councilmember Graves seconded adjournment of the City Council meeting at 9:57 p.m.

Motion passed unanimously.

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Manager

FROM: Alix Bentrud, Deputy City Clerk

SUBJECT: Approval of Licenses

Requested Council Action:

- *Approve 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.

The liquor license renewals are based on past practices of distance requirements and may require an amendment in the future.

GASOLINE SERVICE STATION LICENSES

Boulevard Enterprises Inc. Christy's Auto Service	5300 Dupont Ave N Brooklyn Center 55430
Kabalan Co. dba Pump N' Munch	1505 69th Ave N Brooklyn Center 55430
Northern Tier Retail LLC dba Speedway #4058	1901 57th Ave N Brooklyn Center 55430
Northern Tier Retail LLC dba Speedway #3192	6950 Brooklyn Blvd Brooklyn Center 55429
Northern Tier Retail LLC dba Speedway #4160	6545 West River Road Brooklyn Center 55430

LIQUOR - OFF-SALE 3.2 PERCENT MALT LIQUOR

Kabalan Co. dba Pump N' Munch	1505 69th Ave N Brooklyn Center 55430

MECHANICAL CONTRACTORS

Edina Heating & Cooling, Inc	15753 Cedar Ridge Rd Eden Prairie 55347
	2525 Nevada Ave #104

Farr Plumbing & Heating	Golden Valley 55427
Heating & Cooling Experts. LLC	123 Cedar St White Bear Lake 55110
Larson Plumbing Inc dba Larson Plumbing & Heating	3095 162nd Ln NW Andover 55304
Sustainable Heating & Cooling Inc.	21646 Thomas St Wyoming 55092
Thelen Heating & Cooling	1717 13th St Brainerd 56401
Twin Peaks Heating & A/C	12901 221st Ave NE Elk River 55330

TOBACCO

Kabalan Co. dba Pump N' Munch	1505 69th Ave N Brooklyn Center 55430

Strategic Priorities and Values:

Safe, Secure, Stable Community

COUNCIL ITEM MEMORANDUM

Rental License Category Criteria Policy – Adopted by City Council 09-10-2018

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

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 on January 14, 2019

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***
5331 70th Cir	Single Family	Initial	Boulari Kabore	15	IV	N/A	IV	
5448 Dupont Ave N	Single Family	Initial	Paul Gathumbi	5	II	N/A	II	
5921 Ewing Ave N	Single Family	Initial	Manuel J Bonete	1	II	N/A	II	
5416 Fremont Ave N	Single Family	Initial	Luisa Narvaez	10	IV	N/A	IV	
6915 Logan Ave N	Single Family	Initial	Trang Lam	1	II	N/A	II	
5949 Vincent Ave N	Single Family	Initial	Olufemi Kolawale Olagbaju	5	II	N/A	II	
4913 Winchester Ln	Single Family	Renewal	Huda Hassen	13	IV		IV	
6661 Xerxes Pl	Single Family	Initial	Ashwin Goel	5	II	N/A	II	
3401-3413 47th Ave N	1 Bldg 22 Units	Renewal	Ryan Lake Apartments	51 3.32/unit	IV	0	IV	III
3601 47th Ave N	4 Bldgs 44 units	Renewal	Halverson & Blaiser Group, Ltd Ryan Creek Manor	149 3.38/unit	IV	1 valid	IV	III
1107 57th Ave N	1 Bldg 4 Units	Renewal	Bob Robson	17 4.25/unit	IV	0	IV	I
4500 58th Ave N	46 Bldgs 276 Units	Renewal	TLN LA NEL Twin Lake North	670 2.42/unit	III	0.08 per unit	III	II
7018 Brooklyn Blvd	1 Bldg 8 Units	Renewal	Nelia G Schaff	74 9.25/unit	IV	.50 per unit	IV	IV
5001 Ewing N	1 Bldg 4 units	Renewal	Bartholomew Dabrowski	7 1.75/unit	III	0	III	III
6700 Humboldt Ave N	4 Bldgs 54 units	Renewal	John Roder Sterling Square	39 0.72/unit	I	0.15 per unit	I	I
6742-44 France Ave N	Two Family 2 Units	Renewal	Infinite Property LLC	1 0.50/unit	I	0	I	III
5341-43 Penn Ave	Two Family 2 Units	Renewal	Margery Schwab	3 1.5/unit	I	1 valid	I	II
4212 61st Ave N	Single Family	Renewal	John Hostetler	13	IV	0	IV	II
1118 62nd Ave N	Single Family	Renewal	Elbrus Management	13	IV	0	IV	III
3106 64th Ave N	Single Family	Renewal	Invitation Homes	2	I	0	I	IV
5325 70th Circle	Single Family	Renewal	Douglas Allen Wahl	10	IV	0	IV	IV
5606 Bryant Ave N	Single Family	Renewal	Marc Silverstein	19	IV	0	IV	IV
6725 Bryant Ave N	Single Family	Renewal	Vong Duong	12	IV	0	IV	IV
5700 Camden Ave N	Single Family	Renewal	Quality Residences /Danmark Properties, LLC	6	III	0	III	II
3612 Commodore	Single Family	Renewal	Invitation Homes	14	IV	0	IV	I
5550 Girard Ave N	Single Family	Renewal	Jim Jasper/RESTART	0	I	0	I	III

Rental Licenses for Council Approval on January 14, 2019

Property Address	Dwelling Type	Renewal or Initial	Owner	Property Code Violations	License Type	Police CFS *	Final License Type **	Previous License Type ***
7037 Humboldt Ave N	Single Family	Renewal	San Yen Liew	1	I	0	I	III
6445 James Cir N	Single Family	Renewal	Kasawa Hospitality	3	II	HOTEL	II	III
5600 Judy La	Single Family	Renewal	Nita Morlock	7	III	0	III	III
5500 Knox Ave N	Single Family	Renewal	Marc Silverstein	5	II	0	II	II
7125 Kyle Ave N	Single Family	Renewal	Prosperous Property LLC	2	I	0	I	I
4110 Lakebreeze Ave	Single Family	Renewal	Mindy Jean Brummer	2	I	1 valid	I	III
4201 Lakeside Ave #104	Single Family	Renewal	Minneapolis Property LLC	2	I	0	I	IV
4201 Lakeside Ave #201	Single Family	Renewal	Justin Frederick	4	II	0	II	III
5724 Logan Ave N	Single Family	Renewal	Konstantin Ginzberg	10	IV	0	IV	I
5728 Logan Ave N	Single Family	Renewal	Konstantin Ginzberg	2	I	0	I	II
3018 Ohenry Rd	Single Family	Renewal	COSCO Properties	2	I	0	I	II
6901 Quail Ave N	Single Family	Renewal	Prosperous Property LLC	1	I	0	I	I
6824 Regent Ave N	Single Family	Renewal	Cari Gilseth	0	I	0	I	II
5924 Washburn Ave N	Single Family	Renewal	Ryan McLuen	1	I	0	I	III
4201 Winchester Ln	Single Family	Renewal	Theresa Burns & Eric Poehler	3	II	0	II	II
4912 Zenith Ave N	Single Family	Renewal	Frank Jin & Emily Zhao	2	I	0	I	II

* CFS = Calls For Service for Renewal Licenses Only (Initial Licenses are not applicable to calls for service and will be listed N/A.)

** License Type Being Issued Type II = 2 Year Type III = 1 Year

*** Initial licenses will not show a previous license type

All properties are current on City utilities and property taxes

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Designating Official Newspaper

Requested Council Action:

- *Approve resolution Designating Official Newspaper for 2019*

Background:

Section 12.01 of the Brooklyn Center City Charter requires the City Council to annually designate a legal newspaper of general circulation of the City as its official newspaper in which the City will publish ordinances, bids, public hearing notices, advertising for proposals, assessments, bonds, financial reports, and other matters as required by law. Sun Media has once again requested that the City Council consider designating Brooklyn Center Sun-Post to be the official newspaper for 2019. Brooklyn Center Sun-Post meets all necessary requirements of a qualified newspaper. The rate structure is as follows:

- $11.90 per column inch (9 lines per inch= $1.32 per line).

Budget Issues:

The 2019 budget includes $5,000 for legal publications.

Strategic Priorities and Values:

Safe, Secure, Stable Community, Operational Excellence

December 2018

City of Brooklyn Center
City Council
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Dear City Council Members:
Please accept the following bid from the ***Brooklyn Center Sun-Post*** for legal newspaper designation for the City of Brooklyn Center. This newspaper is qualified by the State of Minnesota as a legal newspaper under Minnesota Statutes Section 331A.02, Subd. 1.

The following rate structure for legals is effective January 1, 2019:

First insertion:	**$11.**90 per column inch
Subsequent insertions:	**$**7.00 per column inch
Characters per inch:	**320**
Lines per inch:	**9**

A notarized affidavit will be provided for each notice published. Additional affidavits are $2.50 each. A $20.00 charge will be assessed on legal notices that require typing. All published legal notices are posted on the *Sun-Post* website at no additional charge.

The *Sun-Post* is published weekly on Thursdays. The deadline is 2:00 p.m. on Thursday for publication the following Thursday. Please email legal notices to publicnotice@ecm-inc.com.
Thank you for considering the *Sun-Post* as the official newspaper for the City of Brooklyn Center for the upcoming year. We appreciate the opportunity to serve the needs of your community.

Sincerely,

Steve Gall
Advertising Director

CHAPTER 331A

QUALIFIED NEWSPAPERS

331A.01	DEFINITIONS.	331A.07	AFFIDAVIT OF PUBLICATION.
331A.02	REQUIREMENTS FOR A QUALIFIED NEWSPAPER.	331A.08	COMPUTATION OF TIME.
331A.03	WHERE NOTICE PUBLISHED.	331A.09	PUBLICATION ON SUNDAY OR HOLIDAY.
331A.04	DESIGNATION OF A NEWSPAPER FOR OFFICIAL PUBLICATIONS.	331A.10	CHANGE OF NAME OR DISCONTINUANCE OF NEWSPAPER.
331A.05	FORM OF PUBLIC NOTICES.	331A.11	APPLICATION.
331A.06	RATES FOR PUBLICATION.	331A.12	WEBSITE ADVERTISEMENT FOR TRANSPORTATION PROJECT BIDS.

331A.01 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections 331A.01 to 331A.11, the terms defined have the meanings given them except as otherwise expressly provided or indicated by the context.

Subd. 2. **Known office of issue.** "Known office of issue" means the newspaper's principal office devoted primarily to business related to the newspaper, whether or not printing or any other operations of the newspaper are conducted at or from the office. A newspaper may have only one known office of issue.

Subd. 3. **Political subdivision.** "Political subdivision" means a county, municipality, school district, or any other local political subdivision or local or area district, commission, board, or authority.

Subd. 4. **Municipality.** "Municipality" means a home rule charter or statutory city or town.

Subd. 5. [Repealed, 2004 c 182 s 33]

Subd. 6. **Proceedings.** "Proceedings" means the substance of all official actions taken by the governing body of a political subdivision at any regular or special meeting, and at minimum includes the subject matter of a motion, the persons making and seconding a motion, the roll call vote on a motion, the character of resolutions or ordinances offered, including a brief description of their subject matter, and whether defeated or adopted.

Subd. 7. **Public notice.** "Public notice" means every notice required or authorized by law or by order of a court to be published by a qualified newspaper, and includes:

(1) every publication of laws, ordinances, resolutions, financial information, and proceedings intended to give notice in a particular area;

(2) every notice and certificate of election, facsimile ballot, notice of referendum, notice of public hearing before a governmental body, and notice of meetings of private and public bodies required by law;

(3) every summons, order, citation, notice of sale or other notice which is intended to inform a person that the person may or shall do an act or exercise a right within a designated period or upon or by a designated date; and

(4) this subdivision contains no independent requirement for the publication of any public notice.

Subd. 8. **Qualified newspaper.** "Qualified newspaper" means a newspaper which complies with all of the provisions of section 331A.02. The following terms, when found in laws referring to the publication of a public notice, shall be taken to mean a qualified newspaper: "qualified legal newspaper," "legal newspaper," "official newspaper," "newspaper," and "medium of official and legal publication."

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Subd. 9. **Secondary office.** "Secondary office" means an office established by a newspaper in a community other than that in which its known office of issue is located, in the same or an adjoining county, open on a regular basis to gather news and sell advertisements and subscriptions, whether or not printing or any other operations of the newspaper are conducted at or from the office.

Subd. 10. **Summary.** "Summary" means an accurate and intelligible abstract or synopsis of the essential elements of proceedings, ordinances, resolutions, financial statements, and other official actions. It shall be written in a clear and coherent manner, and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When a summary is published, the publication shall clearly indicate that the published material is only a summary and that the full text is available for public inspection at a designated location or by standard or electronic mail. A summary published in conformity with this section shall be deemed to fulfill all legal publication requirements as completely as if the entire matter which was summarized had been published. No liability shall be asserted against a political subdivision in connection with the publication of a summary or agenda.

Subd. 11. **Recognized industry trade journal.** "Recognized industry trade journal" means a printed or digital publication or website that contains building and construction news of interest to contractors in this state, or that publishes project advertisements and bids for review by contractors or other interested bidders in its regular course of business.

History: *1984 c 543 s 20; 1986 c 444; 2004 c 182 s 3-7; 2013 c 46 s 1*

331A.02 REQUIREMENTS FOR A QUALIFIED NEWSPAPER.

Subdivision 1. **Qualification.** No newspaper in this state shall be entitled to any compensation or fee for publishing any public notice unless it is a qualified newspaper. A newspaper that is not qualified must inform a public body that presents a public notice for publication that it is not qualified. To be qualified, a newspaper shall:

(a) be printed in the English language in newspaper format and in column and sheet form equivalent in printed space to at least 1,000 square inches, or 800 square inches if the political subdivision the newspaper purports to serve has a population of under 1,300 and the newspaper does not receive a public subsidy;

(b) if a daily, be distributed at least five days each week. If not a daily, the newspaper may be distributed twice a month with respect to the publishing of government public notices. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the political subdivision which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population of under 1,300, or have at least 400 copies regularly distributed without charge to local residents, or 250 copies distributed without charge to local residents if the political subdivision it purports to serve has a population of under 1,300;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the political subdivision which the newspaper purports to serve, or in an adjoining county;

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(f) file a copy of each issue immediately with the State Historical Society;

(g) be made available at single or subscription prices to any person or entity requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication;

(i) between September 1 and December 31 of each year publish a sworn United States Post Office periodicals-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of at least one year ending no earlier than the June 30 preceding the publication deadline. When publication occurs after December 31 and before July 1, qualification shall be effective from the date of the filing described in paragraph (j) through December 31 of that year; and

(j) after publication, submit to the secretary of state by December 31 a filing containing the newspaper's name, address of its known office of issue, telephone number, and a statement that it has complied with all of the requirements of this section. The filing must be accompanied by a fee of $25. The secretary of state shall make available for public inspection a list of newspapers that have filed. Acceptance of a filing does not constitute a guarantee by the state that any other qualification has been met.

Subd. 2. [Repealed, 2004 c 182 s 33]

Subd. 3. **Publication; suspension; changes.** The following circumstances shall not affect the qualification of a newspaper, invalidate an otherwise valid publication, or invalidate a designation as official newspaper.

(a) Suspension of publication for a period of not more than three consecutive months resulting from the destruction of its known office of issue, equipment, or other facility by the elements, unforeseen accident, or acts of God or by reason of a labor dispute.

(b) The consolidation of one newspaper with another published in the same county, or a change in its name or ownership, or a temporary change in its known office of issue.

(c) Change of the day of publication, the frequency of publication, or the change of the known office of issue from one place to another within the same county. Except as provided in this subdivision, suspension of publication, or a change of known office of issue from one county to another, or failure to maintain its known office of issue in the county, shall deprive a newspaper of its standing as a qualified newspaper until it again becomes qualified pursuant to subdivision 1.

Subd. 4. **Declaratory judgment of legality.** A person interested in a newspaper's qualification under this section may petition the district court in the county in which the newspaper has its known office of issue for a declaratory judgment to determine whether the newspaper is qualified. Unless filed by the publisher, the petition and summons shall be served on the publisher as in other civil actions. Service in other cases shall be made by publication of the petition and summons once each week for three successive weeks in the newspaper or newspapers the court may order and upon the persons as the court may direct. Publications made in a newspaper after a judgment that it is qualified but before the judgment is vacated or set aside shall be valid. Except as provided in this subdivision, the Uniform Declaratory Judgments Act and the Rules of Civil Procedure shall apply to the action.

Subd. 5. **Posting notices on website.** If, in the normal course of its business, a qualified newspaper maintains a website, then as a condition of accepting and publishing public notices, the newspaper must agree to post all the notices on its website at no additional cost. The notice must remain on the website during

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the notice's full publication period. Failure to post or maintain a public notice on the newspaper's website does not affect the validity of the public notice.

History: *1984 c 543 s 21; 1985 c 174 s 1; 1Sp1985 c 13 s 315; 1987 c 30 s 1; 1987 c 286 s 1; 1988 c 682 s 42; 1990 c 395 s 1; 1991 c 205 s 17; 1997 c 137 s 13; 2001 c 38 s 1; 2004 c 182 s 8-11; 2009 c 152 s 5*

331A.03 WHERE NOTICE PUBLISHED.

Subdivision 1. **Generally.** Except as provided in subdivision 2, a public notice shall be published in a qualified newspaper, and except as otherwise provided by law, in one that is likely to give notice in the affected area or to whom it is directed. When a statute or other law requires publication in a newspaper located in a designated political subdivision or area and no qualified newspaper is located there, publication shall be made in a qualified newspaper likely to give notice unless the particular statute or law expressly provides otherwise. If no qualified newspaper exists, then publication is not required.

Subd. 2. **Exception; certain cities of the fourth class.** A public notice required to be published by a statutory or home rule charter city of the fourth class located in the metropolitan area defined in section 473.121, subdivision 2, is not required to be published in a qualified newspaper if there is no qualified nondaily newspaper of general circulation in the city, provided the notice is printed in a newsletter or similar printed means of giving notice that is prepared by the city and either mailed or delivered to each household in the city.

Subd. 3. **Alternative dissemination of bids and requests.** (a) In addition to or as an alternative to the statutory requirements for newspaper publication, a political subdivision may disseminate solicitations of bids, requests for information, and requests for proposals by a means authorized in paragraph (b), if the political subdivision simultaneously publishes, either as part of the minutes of a regular meeting of the governing body or in a separate notice published in the official newspaper, a description of all solicitations or requests so disseminated, along with the means by which the dissemination occurred.

(b) A political subdivision may use its website or recognized industry trade journals as an alternative means of dissemination. A dissemination by alternative means must be in substantially the same format and for the same period of time as a publication required by this chapter.

(c) For the first six months after a political subdivision designates an alternative means of dissemination, it must continue to publish solicitation of bids, requests for information, and requests for proposals in the official newspaper in addition to the alternative method. The publication in the official newspaper must indicate where to find the designated alternative method. After the expiration of the six-month period, an alternative means of dissemination satisfies the publication requirements of law for solicitation of bids, requests for information, and requests for proposals.

History: *1984 c 543 s 22; 1991 c 53 s 1; 2004 c 182 s 12,13*

331A.04 DESIGNATION OF A NEWSPAPER FOR OFFICIAL PUBLICATIONS.

Subdivision 1. **Priority.** The governing body of a political subdivision, when authorized or required by statute or charter to designate a newspaper for publication of its public notices, shall designate a qualified newspaper in the following priority.

Subd. 2. **Known office in locality.** If there are one or more qualified newspapers, the known office of issue of which are located within the political subdivision, one of them shall be designated.

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Subd. 3. **Secondary office in locality.** When no qualified newspaper has a known office of issue located in the political subdivision, but one or more qualified newspapers maintain a secondary office there, one of them shall be designated.

Subd. 4. **General circulation in locality.** When no qualified newspaper has its known office of issue or a secondary office located within the political subdivision, then a qualified newspaper of general circulation there shall be designated.

Subd. 5. **Other situations.** If a political subdivision is without an official newspaper, or if the publisher refuses to publish a particular public notice, matters required to be published shall be published in a newspaper designated as provided in subdivision 4. The governing body of a political subdivision with territory in two or more counties may, if deemed in the public interest, designate a separate qualified newspaper for each county.

Subd. 6. **Exception to designation priority.** (a) Notwithstanding subdivisions 1 to 3, the governing body of a political subdivision may designate any newspaper for publication of its official proceedings and public notices, if the following conditions are met:

(1) the newspaper is a qualified medium of official and legal publication;

(2) the publisher of the newspaper furnishes a sworn statement, verified by a recognized independent circulation auditing agency, covering a period of at least one year ending no earlier than 60 days before designation of the newspaper, stating that the newspaper's circulation reaches not fewer than 75 percent of the households within the political subdivision;

(3) the newspaper has provided regular coverage of the proceedings of the governing body of the political subdivision and will continue to do so; and

(4) the governing body votes unanimously to designate the newspaper.

(b) If the circulation of a newspaper designated under this subdivision falls below 75 percent of the households within the political subdivision at any time within the term of its designation as official newspaper, its qualification to publish public notices for the political subdivision terminates.

Subd. 7. **Joint bidding.** A bid submitted jointly by two or more newspapers for the publication of public notices must not be considered anticompetitive or otherwise unlawful if the following conditions are met:

(1) all of the qualified newspapers in the political subdivision participate in the joint bid;

(2) the existence of the joint bid arrangement is disclosed to the governing body of the political subdivision before or at the time of submission of the joint bid; and

(3) the board is free to reject the joint bid and, if it does, individual qualified newspapers do not refuse to submit separate bids owing to the rejection of the joint bid.

History: *1984 c 543 s 23; 2003 c 59 s 1; 2004 c 182 s 14*

331A.05 FORM OF PUBLIC NOTICES.

Subdivision 1. **English language.** All public notices shall be printed or otherwise disseminated in the English language.

Subd. 2. **Time of notice.** Unless otherwise specified by law, or by order of a court, publication of a public notice shall be as follows:

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(a) the notice shall be published once;

(b) if the notice is intended to inform the public about a future event, the last publication shall occur not more than 30 days and not less than seven days before the event;

(c) if the notice is intended to inform the public about a past action or event, the last publication shall occur not more than 45 days after occurrence of the action or event.

Subd. 3. **Type face.** Except as otherwise directed by a particular statute requiring publication of a public notice or by order of a court, a public notice shall be printed in a type face no smaller than six point with a lowercase alphabet of at least 90 points. Larger type faces may be used.

Subd. 4. **Title or caption.** Every public notice shall include a bold face title or caption in a body type no smaller than brevier or eight point referring to the content of the notice. Larger type faces may be used.

Subd. 5. **Local options.** The governing body of a political subdivision may, to better inform the public, increase the frequency of publication of a public notice beyond the minimum required by a particular statute. It may use forms and styles for the notice as it deems appropriate, including the use of display advertisements and graphics. In addition to publication in the newspaper required to be designated under section 331A.04, it may publish or disseminate the notice in other newspapers and by means of standard and electronic mail. Regardless of whether a particular statute specifies "legal notice," "public notice," "notice," or uses similar terms, the governing body may use whatever form for the published notice that it deems appropriate in order to adequately inform the public, subject to the requirements of sections 331A.01 to 331A.11. Nothing in the foregoing provisions of this subdivision shall require the governing body of a political subdivision to use the options described.

Subd. 6. **Conflict of laws.** Nothing in this section shall invalidate or affect any statutory or charter provision imposing additional or special qualifications for publication of particular notices or proceedings.

Subd. 7. **Errors in publication.** If through no fault of the political subdivision, an error occurs in the publication of a public notice, the error shall have no effect on the validity of the event, action, or proceeding to which the public notice relates.

Subd. 8. **Notice regarding published summaries.** If a political subdivision elects to publish a summary of the political subdivision's financial statement or proceedings as authorized by other law, it must include with the published summary a notice stating that a copy of the full version of the financial statement or proceedings other than attachments to the minutes is available without cost at the offices of the political subdivision or by means of standard or electronic mail.

History: *1984 c 543 s 24; 1997 c 56 s 1; 2004 c 182 s 15-19; 2008 c 154 art 10 s 4*

331A.06 RATES FOR PUBLICATION.

Subdivision 1. **Maximum rate.** The maximum rate charged for publication of a public notice shall not exceed the lowest classified rate paid by commercial users for comparable space in the newspapers in which the public notice appears, and shall include all cash discounts, multiple insertion discounts, and similar benefits extended to the newspaper's regular customers.

Subd. 2. **Rate increases.** Notwithstanding subdivision 1, no newspaper may increase its rates for publication of public notices by more than ten percent per year, as compared to the maximum rate actually charged by the newspaper in the previous year for publication of public notices, and in any case the new

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rate shall not exceed the rate described in subdivision 1. Nothing in this section shall be interpreted to mean that such an increase is required.

Subd. 3. **Rate from competitive bidding.** When the governing board of a political subdivision awards a contract for the publication of public notices based on competitive bidding, the rate established by the competitive bidding shall be the rate charged for publication of the public notices.

Subd. 4. **Publication at legal rate.** When a statute refers to publication of a public notice at the legal rate the maximum rate shall be as provided in this section.

Subd. 5. **Multiyear publication contracts.** Notwithstanding other law, a political subdivision may enter into multiyear contracts with a qualified newspaper for publication of the political subdivision's public notices. No multiyear contract may be for a term longer than three years.

History: *1984 c 543 s 25; 1985 c 174 s 2; 1994 c 465 art 2 s 18; 2004 c 182 s 20,21*

331A.07 AFFIDAVIT OF PUBLICATION.

No compensation shall be recoverable for publishing a public notice in any newspaper unless the bill is accompanied by an affidavit of the publisher of the newspaper or the publisher's designated agent, having knowledge of the facts, stating that the newspaper has complied with all the requirements to constitute a qualified newspaper. The affidavit must set forth the dates of the month and year and the day of the week upon which the public notice was published in the newspaper. The affidavit must also include the publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to section 331A.06.

History: *1984 c 543 s 26; 1993 c 48 s 7; 2004 c 182 s 22*

331A.08 COMPUTATION OF TIME.

Subdivision 1. **Time for publication.** The time for publication of public notices shall be computed to exclude the first day of publication and include the day on which the act or event, of which notice is given, is to happen or which completes the full period required for publication.

Subd. 2. **Time for act or proceeding.** The time within which an act is to be done or proceeding had or taken, as prescribed by the rules of procedure, shall be computed by excluding the first day and including the last. If the last day is Sunday or a legal holiday the party shall have the next secular day in which to do the act or take the proceeding.

Subd. 3. **Publication of proceedings.** Notwithstanding other statutory publication requirements, if the governing body of a political subdivision conducts regular meetings not more than once every 30 days, the governing body need not publish the meeting minutes in the official newspaper until ten days after the proceedings have been approved by the governing body.

History: *1984 c 543 s 27; 2004 c 182 s 23*

331A.09 PUBLICATION ON SUNDAY OR HOLIDAY.

Any public notice may lawfully be printed in a newspaper published on a Sunday or holiday. Any notice that, by law or the order of any court, is required to be published for any given number of weeks may be

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published on any day in each week of the term, and if published as many weeks and as many times in each week as required by the law or order, it is a lawful publication.

History: *1984 c 543 s 28; 2004 c 182 s 24*

331A.10 CHANGE OF NAME OR DISCONTINUANCE OF NEWSPAPER.

Subdivision 1. **Change of name.** When a public notice is required or ordered to be published in a particular newspaper and the name of the newspaper is changed before the publication is completed, the publication shall be made or continued in the newspaper under its new name with the same effect as if the name had not been changed. The proof of the publication, in addition to other requirements, shall state the change of name and specify the period of publication in the newspaper under each name.

Subd. 2. **Discontinuance.** When a newspaper ceases to be published before the publication of a public notice is commenced, or when commenced ceases before the publication is completed, the order for publication, when one is required in the first instance, may be amended by order of the court or judge, to designate another newspaper, as may be necessary. If no order is required in the first instance, publication may be made or completed in any other qualified newspaper. Any time during which the notice is published in the first newspaper shall be calculated as a part of the time required for the publication, proof of which may be made by affidavit of any person acquainted with the facts.

History: *1984 c 543 s 29; 2004 c 182 s 25*

331A.11 APPLICATION.

Subdivision 1. **Application.** Sections 331A.01 to 331A.11 apply to all political subdivisions of the state.

Subd. 2. **Notices excluded.** Sections 331A.01 to 331A.11 do not apply to notices required by private agreements or local laws to be published in newspapers, unless they refer expressly or by implication to this chapter or to particular provisions of this chapter.

History: *1984 c 543 s 30; 2004 c 182 s 26,27*

331A.12 WEBSITE ADVERTISEMENT FOR TRANSPORTATION PROJECT BIDS.

Subdivision 1. **Definitions.** (a) The terms defined in this subdivision and section 331A.01 apply to this section.

(b) "Website" means a specific, addressable location provided on a server connected to the Internet and hosting World Wide Web pages and other files that are generally accessible on the Internet all or most of the day.

Subd. 2. **Designation.** At the meeting of the governing body of a political subdivision at which the governing body designates its official newspaper for the year, the governing body may designate in the same manner publication of transportation projects on the political subdivision's website. Publication on the website may be used in place of or in addition to any other required form of publication. Each year after designating publication on the website for transportation projects, the political subdivision must publish, in a qualified newspaper in the jurisdiction and on the website, notice that the political subdivision will publish any advertisements for bids on its website.

Subd. 3. **Form, time for publication same.** A political subdivision that publishes on its website under this section must post the information in substantially the same format and for the same period of time as required for publication in an official newspaper or other print publication.

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Subd. 4. **Record retention.** A political subdivision that publishes notice on its website under this section must ensure that a permanent record of publication is maintained in a form accessible by the public.

History: *1Sp2003 c 19 art 2 s 56; 2014 c 287 s 22*

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Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DESIGNATING OFFICIAL NEWSPAPER

WHEREAS, Section 12.01 of the Brooklyn Center City Charter requires the City Council to annually at its first meeting of the year designate a legal newspaper of general circulation in the city as its official newspaper in which shall be published such ordinances and other matters as are required by law to be so published and such other matters as the council may deem it advisable and in the public interest to have published in this manner; and

WHEREAS, the *Brooklyn Center Sun-Post* has previously been so designated; and

WHEREAS, the *Brooklyn Center Sun-Post* meets all necessary requirements for designation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that the *Brooklyn Center Sun-Post* is hereby designated as the official newspaper for the City of Brooklyn Center for the year 2019.

January 14, 2019
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Designating Depositories of City Funds

Requested Council Action:

- *Motion to approve resolution designating depositories of city funds.*

Background:

At the beginning of each fiscal year, in accordance with Minnesota Statutes 118A.02 and City Council Policy 2.22.4.A, the City Council considers a resolution authorizing depositories for City funds. The resolution includes banks with a presence in Brooklyn Center as well as any banks with whom the City deals on a regular basis throughout the year. The attached resolution designates banks which may not currently hold City funds but which may during the fiscal year, become a depository for City funds. Other financial depositories, such as the 4M Funds, are included because we are members of those depositories. Not all investment dealers/brokers are part of the City's current program but are authorized, after filing the appropriate Broker Certification Form, a requirement of Minnesota Statutes 118A, to transact business with the City of Brooklyn Center. If the City has no contact or activity with a dealer/broker during the previous fiscal year, that firm is removed and not included in the succeeding year's list. All banks, depositories, investment dealers and brokers, with the exception of the Federal Reserve Bank of Minneapolis, are checked for certification by FDIC, SIPC or other certification as required by Minnesota Statutes 118A. All of this documentation is reviewed by the City's auditors during the financial statement audit each year.

Proposed deletions are shown in ~~red strikethrough~~ and additions are shown in blue underline in the attached resolution.

Budget Issues:

There is no direct financial impact on the City.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DESIGNATING DEPOSITORIES OF CITY FUNDS

WHEREAS, Section 7.01 of the City Charter provides the City Council with authority over City funds that includes the safekeeping and disbursement of public monies; and

WHEREAS, Section 7.10 of the City Charter provides that City funds shall be disbursed by check bearing the actual or facsimile signature of the City Manager and City Treasurer.

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

1. That US Bank, NA is hereby designated as a depository for funds of the City of Brooklyn Center for operational banking and investment purposes.

2. That the following named bankers and brokers are hereby designated as additional depositories to be used for investment purposes:

   Federal Reserve Bank of Minneapolis

   Wells Fargo Bank, N.A.

   Minnesota Municipal Money Market Fund (4M Fund)
   Minnesota Municipal Money Market Plus Fund (4M Plus Fund)
   Minnesota Municipal Money Market Time Series Pools (4M Time Series)

   ~~Northland Securities~~
   Oppenheimer & Co., Inc
   UBS Financial Services
   Wells Fargo Securities, LLC
   Moreton Capital Markets, LLC

   The City Treasurer is hereby authorized to deposit funds in accounts guaranteed by the Federal Deposit Insurance Corporation (FDIC), the Securities Insurance Protection Corporation (SIPC), successors of the FDIC or SIPC or other governmental institutions insuring the safety and liquidity of public monies. Funds deposited with designated depositories in excess of the insurance limits available through FDIC, SIPC or its successor institutions shall be covered by collateral in the form of government securities held in the City's name or other collateral proposed by the institution and approved by the City of not less than 110% of the value of the uninsured deposits.

RESOLUTION NO. _____

3. That the following named clearinghouses for credit card transactions are hereby designated for accepting payments:

   Wells Fargo Merchant Services
   Elavon Incorporated
   Sage Payment Solutions
   Chase Paymentech

4. Wells Fargo Institutional Trust Services is hereby designated as the safekeeping depository for investment instruments in the City's investment portfolio and as clearinghouse for the City's investment portfolio transactions.

5. That the City Council authorizes the City Manager, the City Treasurer, or the Deputy City Treasurer to act for the City in all of its business activities with these designated depositories.

January 14, 2019
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Approving the 2019 Fee Schedule

Requested Council Action:

- *Approve the resolution approving the 2019 Fee Schedule*

Background:

Before you tonight for approval is the 2019 Fee Schedule. This is a comprehensive document that entails all of the fees for the city and is approved annually.

Changes to the Fee Schedule include: updated planning commission fees; additional building permit fee for insulation; updated courtesy bench fees; and updated Tobacco Violation fee.

Budget Issues:

No budget issues related to this item

Strategic Priorities and Values:

Operational Excellence



FEE SCHEDULE

Licenses, Permits, Miscellaneous Services

Adopted March 1987
Updated January 14, 2019

6301 Shingle Creek Parkway * 55430-2199
763-569-3000
www.cityofbrooklyncenter.org

Introduction

In March 1987 the Brooklyn Center City Council approved an amendment to the City Ordinances that removed the fees for licenses and permits from the City Ordinances and established fees by Council resolution. The resolutions establishing fees for licenses and permits were collated into the following fee schedule, and it is updated whenever fees are amended or new fees are established. It provides a means by which fees for permits, licenses, and miscellaneous services are incorporated into one document to aid employees who need to collect fees or provide public information regarding fees. Fees for licenses and permits are set forth by Council resolution. Fees for copies, research projects, maps, and ordinances are generally set by the City Manager.

Fees relating to the Community Center and Centerbrook Golf Course can be obtained directly from the Department of Community Activities, Recreation, and Services and are not included in this fee schedule.

Fees relating to the Earle Brown Heritage Center can be obtained directly from the Heritage Center and are not included in this fee schedule.

Table of Contents

Licenses *2-5*

Permits *6-9*

Miscellaneous Services *10-17*

License Type	Annual Fee	Expiration	City Code
Amusement Device	Minn. Stat. 449.15	June 30	23-2101
Operator	$15/location, plus $15/machine Res. 87-31		
Kiddie Ride	$10/ride		
Animals (Cats and Dogs)	Res. No. 97-180	September 30	1-102
Commercial Kennel	$100		
Bowling Alley	Res. No. 97-180 $20/alley	December 31	23-209.01
Cesspool Cleaning	Res. No. 87-31 $25	April 30	7-501
Christmas Tree Sales	Res. No. 97-180 $60/lot	January 5	23-1301
Deposit	$100/lot		
Filling Station	Res. No. 97-180	December 31	23-402
First Nozzle/Hose	$90		
Each Additional Nozzle/Hose	$10		
Fireworks	Res. No. 2004-65	December 31	19-403
Temporary Stand	$350/location		
Permanent Structure	$100/location		
Garbage and/or Rubbish Collection	Res. No. 97-180	June 30	7-103
Company	$85		
Vehicle	$25		
Filming & Photography	Res. No. 2019- $400.00		23-2500
Liquor – On-Sale Intoxicating	Res. No. 2017-203		11-106
(Restaurants and hotels)	$6,500	December 31	
Earle Brown Heritage Center	$5,000	December 31	
Temporary On-Sale Intoxicating Liquor (maximum is 3 consecutive days; no more than 12 days total per year)	$25/day	N/A	
Special Event Permit (maximum is 10 consecutive days; no more than 40 days total per year)	$25/day	N/A	
Club		December 31	
Up to 200 members	$300		
201-500 members	$500		
501-1,000 members	$650		
1,001-2,000 members	$800		
2,001-4,000 members	$1,000		
4,001-6,000 members	$2,000		
Over 6,000 members	$3,000		
Culinary Class (limited)	$100	December 31	
Liquor – Sunday Sales	Res. No. 2017-203 $200	December 31	11-106

License Type	Annual Fee	Expiration	City Code
Liquor – Consumption and Display Temporary (maximum 10 days for City)	Res. No. 2017-203 $300 $25	 December 31 N/A	11-106
Liquor – On-Sale Wine	Res. No. 2017-203 $2,000	December 31	11-106
Liquor – On-Sale 3.2 Malt Liquor Temporary	Res. No. 2017-203 $500 $10/day	 December 31 N/A	11-106
Liquor – Off-Sale 3.2 Malt Liquor	Res. No. 2017-203 $100	December 31	11-106
Liquor – On-Sale Brew Pub On-Sale Intoxicating On-Sale 3.2 Percent Malt Liquor	Res. No. 2017-203 $6,500 $500	December 31	11-106
Liquor – Off-Sale Brew Pub	Res. No. 2017-203 $200	December 31	11-106
Liquor – On-Sale Brewer Taproom	Res. No. 2017-203 $600	December 31	11-106
Liquor – On-Sale Microdistillery Cocktail Room	Res. No. 2017-203 $600	December 31	11-106
Liquor – Off-Sale Microdistillery	Res. No. 2017-203 $200	December 31	11-106
Liquor – Off-Sale Small Brewer License	Res. No. 2017-203 $200	December 31	11-106
Liquor – Investigation	Res. No. 2017-203 $500 if conducted within the State of Minnesota, or the actual cost not to exceed $10,000 if the investigation is required outside the State of Minnesota		11-114
Massage Establishment Establishment Investigation – Establishment Masseur or Masseuse Investigation – Masseur/Masseuse	Res. No. 87-31 $3,000 $1,500 $50 $100	December 31	23-1703
Mechanical Systems	Res. No. 97-180 $60	April 30	23-1500
Motor Vehicle Dealer Class A Class B	Res. No. 97-180 $250 $75	April 30	23-1202
Pawnbroker Establishment Investigation	Res. No. 2004-101 $3,000 $1,500	December 31	23-603
Public Dance	Res. No. 97-180 $175	December 31	23-301

License Type	Annual Fee	Expiration	City Code
Rap Parlors, Conversation Parlors, Adult Encounter Groups, Adult Sensitivity Groups, Escort Services, Model Services, Dancing Services, or Hostess Services	Res. No. 87-31 $1,500	December 31	23-1804
Investigation	$1,500		
Rental	Res. No. 2005-152	Biennial	12-901
Single Family Dwelling			
Initial License/New Owner	$400		
Renewal License (no change in license holder)	$300		
Two Family Dwelling			
Each Rental Unit	$200		
Multiple Family Dwelling			
Each Building	$200		
Each Unit	$18		
Minimum Base Fee	$450		
	Res. No. 2011-65		12-910
License Reinstatement	$100		
	Res. No. 2008-150		12-902
Conversion to Rental A residential property converted to a rental property or a registered residential vacant building re-occupied as a rental property. This applies to lawful single-family and single-family attached dwellings.	$500		
Saunas or Sauna Baths	Res. No. 87-31	December 31	23-1602
Establishment	$3,000		
Investigation	$1,500		
Secondhand Goods Dealer	Res. No. 98-227 $750, plus $1.50 per reportable transaction	December 31	23-652
Investigation	$1,500		
Sign Hanger	Res. No. 97-180 $60	April 30	34-160
Taxicab	Res. No. 2004-101 $100/vehicle	December 31	23-702
Tobacco Related Products	Res. No. 97-180 $150	December 31	23-101
Investigation	Res. No. 2014-57 $150		
Transient Accommodations	Res. No. 2017-19	April 30	23-2401
Level I	$150		
Level II	$200		
Level III	$300		

Permit Type	Fee	Ordinance
Online Permit Transaction Fee Per Online Permit	Res. No. 2011-64 $3.50	
Administrative Land Use Outdoor church & civic functions, charities, carnivals, etc. Off-site signs for civic functions or community events Outdoor nursery & garden center sales & displays Miscellaneous outdoor sales, displays, or promotional events Miscellaneous outdoor sales, displays, or promotional events for gasoline service stations Car wash fund raisers	Res. No. 99-172; 2005-65 $25/10 days $25/10 days per location $100/30 weeks $50/10 days $50/30 days $25/10 days	35-800
Alarm **Fire** **Police**	Res. No. 93-233 1/No Charge 2/$150 3+/$300 1-4/No Charge 5/$50; after 5, each alarm increase by $25	23-2006

Permit Type	Fee	Ordinance
Building and Fire Protection	Res. No. 2018-09	3-103
Valuation $1 to $1,000	$49.50	
Valuation $1,001 to $2,000	$49.50 for the first $1,000 plus $3.25 for each additional $100 or fraction thereof, to and including $2,000	
Valuation $2,001 to $25,000	$82.00 for the first $2,000 plus $14.85 for each additional $1,000 or fraction thereof, to and including $25,000	
Valuation $25,001 to $50,000	$423.55 for the first $25,000 plus $10.70 for each additional $1,000 or fraction thereof, to and including $50,000	
Valuation $50,001 to $100,000	$691.05 for the first $50,000 plus $7.45 for each additional $1,000 or fraction thereof, to and including $100,000	
Valuation $100,001 to $500,000	$1,063.55 for the first $100,000 plus $6 for each additional $1,000 or fraction thereof, to and including $500,000	
Valuation $500,000 to $1,000,000	$3,463.55 for the first $500,000 plus $5.10 for each additional $1,000 or fraction thereof, to and including $1,000,000	
Valuation $1,000,001 and up	$6,013.55 for the first $1,000,000 plus $4 for each additional $1,000 or fraction thereof	
Plan Check Fee	65% of the amount of the permit fee	
Investigation Fee	Same amount as building permit fee	
Residential Insulation up to 2 units	$60	
Residential Siding Replacement up to 4 units	$150	
Residential Family Roof Replacement up to 4 units, not including flat roofs	$150	
Egress Window	$100 up to two windows; $150 for 3 or more	
Window or Door Replacement	$100 up to two windows; $150 for 3 or more	
Residential Deck up to 4 Units	$200	
Cesspool Cleaning	Res. No. 87-32	7-502
Permit	$18.75	
Courtesy Bench	Res. No. 2007-47	
Permit	$50/bench	23-902
Inspection	$50/bench	23-903
Demolition	Res. No. 2005-65	23-1501
Permit	$50	

Permit Type	Fee	Ordinance
Electrical	Res. No. 2018-09	3-103
Minimum Fee for an Inspection	$40 per trip	
Minimum Fee for an Inspection per unit with 3 or more connected units (Townhomes, Condos, duplex)	$24 per Unit Per Trip	
Maximum for Single Family Residential (New or Remodel)	$175 (for 3 inspections)	
Maximum for Commercial	Additional @ $40	
Multi Family Units	No limit	
Swimming Pools	$70/unit	
New Service Panel or Generators	$80 per trip plus circuits	
0 to 300 AMP		
Each additional 100 AMP	$50	
Change Out Service in Same Location	$14/each	
Change Out Sub Panel in Same Location	$100	
Each Circuit or Feeder	$40	
0 to 30 AMP		
31 to 100 AMP	$8/each	
Each additional 100 AMP	$10/each	
Street Lights	Add $5 per 100 AMP	
Standard Traffic Signal	$4/each	
Transformer	$7/each	
0 to 10 kilovolt-amperes		
11-75 kilovolt-amperes	$10	
76-299 kilovolt-amperes	$40	
Over 299 kilovolt-amperes	$60	
Fire Alarm & Energy Management Device	$150	
Lighting Retrofit	$10 first 10 openings	
Remote Control/Signal Circuits	$0.65 per fixture	
Solar PV System Rating	$0.75 per device	
0-5,000 watts		
5,001-10,000 watts	$60	3-103 G 6
10,001-20,000 watts	$100	
20,001-30,000 watts	$150	
30,001-40,000 watts	$200	
40,001 and larger	$250	
Investigation Fee (double the fee)	$250 and $25 for each additional 10,000 watts	
Cancelled Permit Handling Fee	$100 Minimum	
Reinspection Fee	$40	
State Surcharge	$40	
Refund issued only for overpayment on permits that exceed $100	$1	
Flood Plain Use	Res. No. 2005-65	35-2182
Up to 1 acre	$50	
1 acre to 5 acres	$50/acre	
Over 5 acres	$250 plus $37.50 per acre for each acre or fraction thereof over 5 acres	
Housemoving	Res. No. 2005-65	23-1501
Permit	$200	
Code Compliance Review Prior to Moving Structure into City	$100	

Permit Type	Fee	Ordinance
Land Disturbing Activities	Res. No. 2005-162	35-235
Permit	$50	
Mechanical Systems	Res. No. 2018-09	3-103
Valuation $0 to $500	$25	
Valuation $501 to $50,000	$25 plus 2% of value of any amount in excess of $500	
Valuation Over $50,000	$1,012.50 plus 1% of value of any amount in excess of $50,000	
Mechanical Plan Review (only when submitted without a building permit)	65% of base permit fee	
2" and less diameter pipe		
1-3 fixtures	$5.75 each	
Additional openings	$2.50 each	
2" and over diameter pipe		
1-3 fixtures	$15 each	
Additional opening	$3.25 each	
Residential Boiler or Fireplace up to 4 units	$60	
Residential Gas Stove or Dryer up to 4 units	$60	
Planning Commission Fees*	Res. No. 2005-65	
Zoning Code Text Amendment	$500	
Rezonings	$1,050	35-210
Site and Building Plan	$750	35-230
Preliminary Plat	$400	15-104
Variance	$200	35-240
Interim Use Permit (IUP)	$250	35-310
IUP Extension/Amendment	$150	35-310
Special Use Permit (SUP)	$250	35-220
SUP Amendment	$250	35-220
Extension of Special Use Permit	$100	35-220
Appeal	$200	35-251
Planned Unit Development (PUD)	$1,800	35-355
PUD Amendment	$700	35-355
Comprehensive Plan Amendment	$1,050	
* For all Planning Commission Applications a refundable escrow of $1,000 will be added to the fee to cover any additional costs associated with the review of the application. Additional escrow may be required subject to the determination of the City Planner.		
Plumbing	Res. No. 2018-09	3-103
Minimum Fee	$25	
Repair or alteration of existing system	2% of estimated cost	
New residential or commercial building	2% of estimated cost	
Plumbing Plan Review (only when submitted without a building permit)	65% of base permit fee	
Residential Water Heater up to 4 units	$60	
Residential Water Softener up to 4 units	$60	
Residential Water Heater and Softener up to 4 units	$60	
Plumbing Fixtures	$60 up to 3 fixtures; $10 for each additional	

Permit Type	Fee	Ordinance
Right-Of-Way	Res. No. 2018-42	25-1009
Administration Fee	$100 per permit	
Excavation Fee	$250 per permit	
Obstruction Fee	$200 per permit	
Pole Attachment Fee	$1,500 per site	
Extension	$50 per permit	
Delay Penalty	$50/day for pavement; $25/day for boulevard/turf	
Sewer and Water	Res. No. 2005-65	3-103
Sewer or water connection	$50	
Sewer or water disconnection	$50	
Sewer and water disconnection	$90	
New commercial sewer and water connection	$150	
New residential sewer and water connection	$100	
Commercial/Industrial fire line	$50	
Water/Sewer repair	$50	
Storm Water	$50	
Minimum Fee	$50	
Sign	Res. No. 2005-65	34-150
50 sq ft in area or less	$50	
Over 50 sq ft in area	$50/1st 50 sq ft and $15.00 for each additional 50 sq ft or fraction	
Minimum Fee	$50	
Footing inspection, when required	$50	

Service	Fee
Abatement Application (Assessing) Taxpayer caused only (others no charge)	$45
Abatement (City-Facilitated)/Administrative Service Charge Cost up to $999 $1,000 to $4,999 $5,000 to $9,999 $10,000 to $14,999 $15,000 or more Each junk or inoperable vehicle	Res. No. 2008-150 $150 $300 $750 $1,250 $1,750 $150
Accident Reports (Police)	$0.25 per page $0.15 per page, if subject of data $0.50 per report, commercial user [defined as a user who requests access to more than five reports per month Minn. Stat. 169.09, Subd. 13(5) (f)]
Administrative Penalty System Fees Level 1 Level 2 Level 3 Level 4	Res. No. 2010-79 $60 $125 $300 $500

Violation Type (Ordinance reference)	Level
Waste container setback violation (7-102)	1
Watering restriction violation (4-202)	1
Local Traffic and Parking (27)	1
Parking Surface violation (12-316)	2
All other city code violations, designated as a misdemeanor or petty misdemeanor	2
Animal (10)	2
Failure to register a vacant property (12-1500)	2
Failure to obtain a permit or license	3
Tenant protection violation (12-912D)	4

Hearing Request Deposit Fee	$20
Special Assessment Charge for unpaid fine amounts that are specially assessed	$30
Appeal Filing Fee – Chapters 12 and 19	$50 Res. No. 2005-65

Service	Fee
Copy Charges for Public Government Data Requests **Not From the Data Subject** **100 Pages or Fewer Black and White Photocopies** 8.5 x 11 or 8.5 x 14 Two-Sided Copy (8.5 x 11 or 8.5 x 14) **All Other Public Government Data Requests** The City will charge the requester **actual costs** of *searching* for and *retrieving* the data, including the cost of employee time, and for *making, certifying, compiling,* and *transmitting* copies of the data or the data themselves **Exception:** There will be no charges for searching, retrieving, compiling, and electronically transmitting readily available data	Minn. Stat. 13.03, Subd. 3 (c) $0.25 $0.50 **Actual Costs** Labor – $0.40 per minute Paper – $0.01 per sheet Black/White Photocopier – $0.01 per page Color Photocopier - $0.07 per page Black/White Printer – $0.02 per page Color LaserJet Printer – $0.09 per color page **Other Actual Costs** that may or may not be included – refer to the document *Fees For Providing Copies of Public Government Data* compiled by the State of Minnesota, Department of Administration, Information Policy Analysis Division at www.ipad.state.mn.us or 651-296-6733 **Total Actual Costs** require that you add labor cost at $0.40 per minute to the supply and materials costs to establish total actual costs
Copy Charges for Public Government Data Requests **By the Subject of Data** When the requester is the subject of the data, the City *will not charge for searching for and retrieving data*. The requester will be charged the actual costs associated with *making, certifying, compiling,* or *transmitting* copies of the data themselves. **Exception:** There will be no charge for compiling and electronically transmitting readily available data.	**Actual Costs** $0.15 per page
Dogs Registration – Dangerous and Potentially Dangerous Contest Declaration Hearing Fee Review Declaration Hearing Fee Contest Sterilization Requirement for Potentially Dangerous Boarding Fee Impounding Penalty	 $35/annual Res. No. 2004-132 $250 Res. No. 2014-43 $100 Res. No. 2014-43 $250 Res. No. 2015-31 Joint & Cooperative Agreement with PUPS $31/day
Fingerprinting (Police) Brooklyn Center resident or Brooklyn Center business owner and/or owner's employees (Saturday 1:00 pm to 7:00 pm)	 $10/card

Service	Fee
Franchise (Natural Gas)	Ord. No. 2016-10
Residential	$1.61/month
Commercial A	$1.68/month
Commercial Industrial B	$5.46/month
Commercial C	$21.84/month
SVDF A	$54.59/month
SVDF B	$104.81/month
LVDF	$104.81/month
Franchise (Electric)	Ord. No. 2016-09
Residential	$1.60/month
Small Commercial & Industrial – Non-Demand	$4.00/month
Small Commercial & Industrial – Demand	$22.00/month
Large Commercial & Industrial	$100.00/month
Public Street Lighting	$13.00/month
Municipal Pumping – Non-Demand	$13.00/month
Municipal Pumping – Demand	$13.00/month
Inspections	
Fire Inspection, Commercial	Res. No. 2011-55
Initial Inspection	No Charge
First Re-Inspection	No Charge
Second Re-Inspection	$100
Third Re-Inspection	$150
Fourth and Subsequent Re-Inspections	$200
Fire Inspection, Daycare	$50/each Res. No. 2009-130
Reinspection	Res. No. 2008-150
A reinspection fee for the second reinspection and each subsequent reinspection shall be collected from the applicant, owner, or responsible party.	
Properties with 1 to 3 units	$100
Properties with 4 or more units	$100 for each common area, plus $50 for each unit
Re-Occupancy Inspection	Res. No. 2008-151
A property maintenance re-occupancy inspection fee is required for registered vacant buildings.	
Apartment/Condo	$115
Townhome	$195
Single Family	$195
Duplex (same owner)	$275
Triplex (same owner)	$415 Res. No. 2009-29
Fourplex (same owner)	$550 Res. No. 2009-29
Intoxilyzers Logs (Police)	$5/page
Maps	
8 1/2 x 11	$3
8 1/2 x 11 with Imaging (aerials)	$5
11 x 17	$4
11 x 17 with Imaging (aerials)	$6
24 x 24	$10
24 x 24 with Imaging (aerials)	$15
23 x 36	$15
23 x 36 with Imaging (aerials)	$25
NSF Check (Finance)	$30

Service	Fee
Plat – Final (Engineering)	$200 Res. No. 92-131
Posting and/or Removal of Posting for Residential Properties Identified as Unsafe for Human Occupancy	Res. No. 2005-65 $50
Police Reports (Police)	$0.25 per page $0.15 per page, if subject of data $0.50 per page, commercial user
Recycling Utility Minimum charge per household per quarter Delinquent account, quarterly charge Certification for collection with property taxes	Res. No. 2018-218 $11.98/quarter Greater of $3 or 10% of unpaid balance $30
Right Of Way Registration	$1,000/New $25/Renewal
Sanitary Sewer Utility Base Rate Quarterly Residential Single Family Apartment Senior Citizen Non-Residential Rate SAC charge set by MCES Delinquent account, quarterly charge Certification for collection with property taxes Line cleaning charge Sanitary Sewer Connection	Res. No. 2018-215 $84.89 $59.42 $46.69 $3.58 per 1,000 gallons Fee established by MCES Greater of $3 or 10% of unpaid balance $30 Labor, materials, equipment, and overhead Established annually by resolution
Satisfaction/Sub Agreements (Community Development)	$50
Site Plans/Surveys (Community Development) 8 1/2 x 11 copies	 $5
Special Assessment Interest Rate	Res. No. 2017-168 4.0 Percent
Special Assessment Search (Assessing)	$25
Special Computer Search (Police)	$7/each address
Storm Sewer Utility (quarterly rates) Base Rate Cemeteries and Golf Courses Parks Single Family, Duplex, Townhouse School, Government Buildings Multiple Family, Churches Commercial, Industrial Vacant Land Delinquent account, quarterly charge Certification for collection with property taxes Private facility cleaning charge	Res. No. 2018-216 $60.24/acre $15.07/acre $30.12/acre $15.07/lot $75.31/acre $180.71/acre $301.20/acre As assigned Greater of $3 or 10% of unpaid balance $30 Labor, materials, equipment, and overhead

Service	Fee
Street Light Utility (quarterly rates)	Res. No. 2018-217
Single, Double, and Multiple Family Residential	$6.55/dwelling unit
Parks	$10.90/acre
Schools, Government Buildings, Churches	$21.80/acre
Retail and Service-Office	$32.69/acre
Commercial and Industrial	$32.69/acre
Vacant Land and Open Space	As assigned
Delinquent account, quarterly charge	Greater of $3 or 10% of unpaid balance
Certification for collection with property taxes	$30
Street and Storm Drainage Special Assessment Rates	Res. No. 2018-190
R-1 zoned, used as one-family site that cannot be subdivided	
Street	$4,623 per lot
Storm Drainage	$1,387 per lot
R-2 zoned, or used as a two-family site that cannot be subdivided	
Street	$61.6400 per front foot with a $4,623 per lot minimum
Storm Drainage	$18.4933 per front foot with a $1,387 per lot minimum
R-3 zoned (per unit)	
Street	Assessable frontage x $58.0400 / Number of residential units
Storm Drainage	Assessable frontage x $17.4133 / Number of residential units
Partial Street Reconstruction	
R-1 zoned, used as one-family site that cannot be subdivided	
Street	$3,467 per lot
R-2 zoned, or used as a two-family site that cannot be subdivided	
Street	$46.2267 per front foot with a $3,467 per lot minimum
R-3 zoned (per unit)	
Street	Assessable frontage x $46.2267 / Number of residential units
Pavement Rehabilitation	
R-1 zoned, used as one-family site that cannot be subdivided	
Street	$1,529 per lot
R-2 zoned, or used as a two-family site that cannot be subdivided	
Street	$20.3867 per front foot with a $1,529 per lot minimum
R-3 zoned (per unit)	
Street	Assessable frontage x $20.3867 / Number of residential units
R-4, R-5, R-6, or R-7 zoned districts	Based on an evaluation of the project cost and the project benefit for each project
Tow to City Property (Police)	Tow charge plus $15 administrative fee
Tree Contractor Registration	Res. No. 2000-09 $35

Service	Fee
Tree Removal	
Each non-assessed diseased tree/stump removal (by agreement)	$50
Special Assessments Service Charge	$30/parcel on which a special assessment is levied
Capitalized Interest Charge (assessed trees only)	$30/per tree
Vacant Building Registration	Res. No. 2008-151
An annual registration fee shall be collected from the applicant, owner, or responsible party.	
Category 1 – property vacant for less than 1 year and does not have any code violation or has not been issued a compliance notice for code violations	$100
Category 2 – property vacant for less than 1 year and has a code violation(s) or has been issued a compliance notice for code violations	$400
Category 3 – property vacant for 1 year up to 3 years	$1,000
Category 4 – property vacant for 3 years or more	$3,000
Vacation – Street, Alley, Easement (Engineering)	$125 Res. No. 92-132
Video Tape Duplicating (Police)	$20
Water and Sanitary Sewer Connection	Res. No.2001-161
Commercial/Industrial Water > 5 Acres	$10,000
Commercial/Industrial Sewer > 5 Acres	$5,000
Commercial/Industrial Water < 5 Acres	$5,000
Commercial/Industrial Sewer < 5 Acres	$3,000
Retail/Office Water > 5 Acres	$5,000
Retail/Office Sewer > 5 Acres	$3,000
Retail/Office Water < 5 Acres	$3,000
Retail/Office Sewer < 5 Acres	$1,500
Multi Family Water > 5 Acres	$5,000
Multi Family Sewer > 5 Acres	$3,000
Multi Family Water < 5 Acres	$3,000
Multi Family Sewer < 5 Acres	$1,500
Single Family Water per connection	$1,000
Single Family Sewer per connection	$1,000

Service	Fee
Water Utility	Res. No. 2018-214
Water Conservation Rate	
5/8" and 3/4" Meter	$15.52 Quarterly Base Charge
0-30,000 gallons per quarter	$2.59 per 1,000 gallons
30,001-60,000 gallons per quarter	$3.22 per 1,000 gallons
60,001 or more gallons per quarter	$4.81 per 1,000 gallons
Base Rate	$3.24 per 1,000 gallons
Quarterly Minimum Rate	
1" Meter	$45.11
1 1/2" Meter	$58.00
2" Meter	$112.78
3" Meter	$225.57
4" Meter	$380.24
6" Meter	$870.05
8" Meter	$1,647.82
10" Meter	$2,197.10
Water Meter Charge 5/8" or 3/4"	$149.00
Water Meter Charge Larger than 3/4"	Actual cost + $2.00
Delinquent account, quarterly charge	Greater of $3 or 10% of unpaid balance
Certification for collection with property taxes	$30
Quarterly Fire Service Line Charge	$12.50
	Res. No. 2007-140
Fire protection inspection	$52
Private hydrant maintenance	Labor, materials, equipment, and overhead
Service Restoration, Monday through Friday (except holidays) Between the hours of 7:30 AM and 3:00 PM	$31
Service Restoration, Saturday, Sunday, Holidays and Between the hours of 3:00 PM and 7:30 AM	$83
Assistance with Seasonal Shut-down and Restoration of Commercial Irrigation Systems, Monday through Friday (except holidays) Only Between the hours of 3:00 PM and 7:30 AM	$45 per hour, 1 hour minimum
Curb stop stand pipe repair	$40
Hydrant Meters (water use will be paid in addition to the rental fee at the Water Conservation Rate)	Res. No. 2013-28
5/8" or 3/4" Meter	
Deposit	$125
Rental Fee (per month or potion thereof)	$25
3" Meter	
Deposit	$1,200
Rental Fee (per month or potion thereof)	$150
Penalty for violation of odd-even sprinkling/watering ordinance	$25/day (Res. No. 2004-70)

Service	Fee
Weed Inspection/Removal	Res. No. 2000-09
Weed Cutter's Fee	$45/hour
Reinspection Fee	$100
Special Assessments Service Charge	$30 per parcel on which a special assessment is levied
Capitalized Interest Charge (assessed weeds only)	$10 per notice
Well Water Test	$10
Zoning Letters (Community Development)	$75

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING THE 2019 FEE SCHEDULE

WHEREAS, the City of Brooklyn Center has a comprehensive fee schedule that is used by staff during the year; and

WHEREAS, this this fee schedule has been amended for the fees for 2019.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that the 2019 Fee Schedule be adopted.

January 14, 2019
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Granting Corporate Authority for Signing of Checks and Transactions of Financial Business Matters

Requested Council Action:

- Motion to approve resolution granting corporate authority for signing of checks and transactions of financial business matters.

Background:

Many investment firms require the adoption of a resolution by the corporate board, in this case the City Council, authorizing specific officers to transact financial business involving treasury notes, certificates of deposit and other securities. The attached resolution fulfills that requirement by appointing the City Manager, the Finance Director, who serves as the City Treasurer, and the Assistant Finance Director, who serves as the Deputy City Treasurer, as the officers authorized to transact such business.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION GRANTING CORPORATE AUTHORITY FOR SIGNING OF CHECKS AND TRANSACTIONS OF FINANCIAL BUSINESS MATTERS

WHEREAS, the City Treasurer must be a signatory to any and all checks issued by the City in payment of obligations of the City; and

WHEREAS, specific individuals must be designated by the City Council as authorized to sell, assign and endorse for transfer various financial instruments in the regular conduct of City business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that Cornelius L. Boganey, City Manager, Nathan Reinhardt, Finance Director and Andrew Splinter, Assistant Finance Director, are hereby authorized to sell, assign and endorse for transfer certificates representing treasury notes, bonds, or other securities now registered or hereafter registered in the name of this municipality.

January 14, 2019
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Opting not to Waive Limited Tort Liability for 2019

Requested Council Action:

- *Motion to adopt resolution opting not to waive limited tort liability for 2019*

Background:

Each year the City must chose whether to waive tort liability limit protections of Minnesota Statutes 466.04 as part of the insurance policy renewal application process. M.S. 466.04 states that the maximum liability for a city for any claim is $500,000 with an aggregate maximum of $1,500,000 per incident. In past years the City Council has chosen not to waive the liability limits and the regular premium for insurance has covered all claims.

If the City were to waive the limits set by statute, it would be prudent to purchase additional insurance coverage to cover possible higher awards in liability claims. Premiums for such insurance would be approximately $9,000 per year.

Budget Issues:

The 2019 budget anticipates leaving the no waiver option in place for 2019 and has anticipated insurance premiums based on that no waiver option. Waiving the statutory limits would require that at approximately $9,000 in additional premium costs be allocated for 2019 and in each succeeding year.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION OPTING NOT TO WAIVE LIMITED TORT LIABILITY FOR 2019

WHEREAS, the City of Brooklyn Center has an option to waive its protection under the tort liability limitation contained in Minnesota Statutes 466.04; and

WHEREAS, the statutory tort limit for 2019 is $500,000 per individual with an aggregate of $1,500,000 per incident; and

WHEREAS, the City of Brooklyn Center has not opted to waive its rights to limited tort liability in past years and is required to make a declaration of its intention every year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the City does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.04 for 2019.

January 14, 2019
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.

LEAGUE OF MINNESOTA CITIES

CONNECTING & INNOVATING
SINCE 1913

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than $500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to $1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.

- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to $2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is $2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to $2,000,000, regardless of the number of claimants.

- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name: _____

Check one:

☐ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04.

☐ The member **WAIVES** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature:_____Position:_____

145 UNIVERSITY AVE. WEST
ST. PAUL, MN 55103-2044

PHONE: (651) 281-1200 FAX: (651) 281-1299
TOLL FREE: (800) 925-1122 WEB: WWW.LMC.ORG

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Todd Berg, Interim Fire Chief

SUBJECT: Resolution Amending Section 2.94 of City Council Code of Policy to Include Paid-On-Call Firefighters

Requested Council Action:

- Approve the resolution amending Section 2.94 of the City of Brooklyn Center City Council Code of Policies to include Paid-On-Call Firefighters

Background:

Currently, there is not a way to recognize part-time paid-on-call firefighters for their service to the City and community at the City Council level. Section 2.94 of the City Council Code of Policies does have provisions for employee recognition for regular full time and part time employees who work more than 20 hours per week. Amending the policy as proposed would allow for recognition of paid-on-call firefighters with 20 or more years of service.

Budget Issues:

The Employee Service Recognition Program is funded through the General Government budget.

Strategic Priorities and Values:

Safe, Secure, Stable Community

2.94 Employee Service Recognition Program

The City of Brooklyn Center's Employee Service Recognition Program is to recognize City employees for years of service to the City. Effective January 1, 1997, the City of Brooklyn Center's Employee Service Recognition Program will include recognition of part-time City employees for their years of service to the City. The program recognizes all regular full-time and part-time employees who work 20 or more hours a week year round for the City of Brooklyn Center and part-time Fire Department employees retiring in good standing. The recognition is accomplished by the presentation of awards by the City Manager or by the Department Director.

Awards are for recognition of years of service as follows:

Five Years Awards such as City of Brooklyn Center sweatshirt and a personalized letter from the City Manager are given to employee.

10 Years Awards such as an engraved paperweight or engraved key chain and a personalized letter from the City Manager are given to the employee.

15 Years Awards such as an engraved letter opener, pocketknife, or desk clock and a personalized letter from the City Manager are given to the employee.

20 Years Awards such as an engraved desk set and a personalized letter from the City Manager are given to the employee. Council recognizes years of employment at a Council meeting.

25 Years Awards such as an engraved wall clock or wristwatch and a personalized letter from the City Manager are given to the employee. Council recognizes years of employment at a Council meeting.

30 Years Awards such as an engraved weather instrument and a personalized letter from the City Manager are given to the employee. Council recognizes years of employment at a Council meeting.

Awarded Upon Retirement To Employee Who Has Completed Ten Years Or More Of Service Or A Part-Time Fire Department Employee With 20 Or More Years Of Service: Awarded personalized Council resolution giving thanks for the work and dedication of the retiring employee mounted on a plaque presented by the City Manager.

Employee Service Recognition Program is funded through the budget.

Reference: City Council Resolution No. 97-25

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION AMENDING SECTION 2.94 OF CITY COUNCIL CODE OF POLICY TO INCLUDE PAID-ON-CALL FIREFIGHTERS

WHEREAS, Section 2.94 of the City Council Code of Policy, Employee Service Recognition Program provides for recognizing employees for their years of service to the City; and

WHEREAS, the recognition program does not apply to paid-on-call firefighters who have extended years of service to the City; and

WHEREAS, years of dedicated service to the City as a paid-on-call firefighter should be recognized by the City; and

WHEREAS, the City Council finds it in the public interest to update the Council Code of Policy such that paid-on-call firefighters who retire in good standing with 20 or more years of service can be recognized by the City.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Section 2.94 of the City Council Code of Policy be and hereby is amended to include paid-on-call firefighters

January 14, 2019
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: Resolution Recognizing Service and Contributions of Mayor Tim Willson

Requested Council Action:

- *Motion to approve resolution recognizing service and contribution of Mayor Tim Willson*

Background:

Tim Willson was elected Mayor of the City Of Brooklyn Center in November 2006, after serving the City for many years in several capacities, including the Charter Commission and as Chair of the Planning Commission for several terms. Mayor Willson was subsequently re-elected as Mayor in 2010 and 2014, serving the residents and citizens of Brooklyn Center for 12 consecutive years.

Having served the City faithfully and effectively for such a lengthy period of time it is fitting to recognize Mayor Willson for his service and contributions. Consistent with past practice of the City, the attached resolution in honor of Mayor Willson and his legacy has been prepared for your consideration.

Budget Issues:

There are know budgetary considerations.

Strategic Priorities and Values:

Operational Excellence

RESOLUTION

RESOLUTION EXPRESSING RECOGNITION AND APPRECIATION OF TIM WILLSON FOR TWELVE YEARS OF DEDICATED PUBLIC SERVICE AS MAYOR

WHEREAS, Tim Willson served as Mayor for the City of Brooklyn Center for twelve years from January 1, 2007, through December 31, 2018; and

WHEREAS, his service to the City and his consistent leadership have contributed substantially to the sound progress and development of the city including but not limited to:

- Bass Lake Road Streetscape
- Forty-five miles of neighborhood infrastructure improvements
- Shingle Creek Crossing Development
- FBI Regional Headquarters
- 47% reduction in Part 1 Crime
- Establishment of Sister City relationship with Voinjama City, Lofa County, Republic of Liberia
- Nationally Recognized Performance Based Rental Housing Program
- Renew And Rebuild Affordable Homeownership Program
- The Sanctuary Affordable Senior Assisted Housing
- Surly Brewery
- Maranatha Redevelopment And Senior Housing Expansion
- Five Improved and New Luther Auto Dealerships
- The Embassy Suites Hotel
- HOM Furniture
- Bank Of America
- Top Golf Recreational and Event Center; and

WHEREAS, his public service and civic efforts for the betterment of the community merit the gratitude of the citizens of Brooklyn Center; and

WHEREAS, it is highly appropriate that his services and achievements for the betterment of the city be permanently recognized and expressed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that Tim Willson is hereby recognized and appreciated by the City of Brooklyn Center, and this resolution serves as a visible and lasting expression of gratitude for the leadership and service he has rendered and the benefits he has secured to the citizens of the City of Brooklyn Center.

January 14, 2019
Date

_____
Mayor

ATTEST: _____
City Clerk

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Certificate of Achievement for Excellence in Financial Reporting

Requested Council Action:

- Motion to acknowledge the Certificate of Achievement award for the City of Brooklyn Center's 2017 Comprehensive Annual Financial Report (CAFR)

Background:

The Government Finance Officers Association of the United States and Canada (GFOA) sponsors a program aimed at achieving excellence and consistency in financial reporting. The award was received by the City of Brooklyn Center for its Comprehensive Annual Financial Report for the year ended December 31, 2017.

The Certificate of Achievement is the highest form of recognition for excellence in state and local government financial reporting. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized comprehensive annual financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements. Its attainment represents a significant accomplishment by government and its management.

The award-winning CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story.

While all members of the Finance Department contributed to the achievement of this distinction, special recognition should be given to Assistant Finance Director Andrew Splinter for his diligent efforts and his expertise in preparation of the report and achievement of this award.

Strategic Priorities and Values:

Operational Excellence

Government Finance Officers Association
203 North LaSalle Street, Suite 2700
Chicago, Illinois 60601-1210
312.977.9700 *fax:* 312.977.4806

November 21, 2018

Nathan Reinhardt
Director of Fiscal and Support Services
City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Dear Mr. Reinhardt:

We are pleased to notify you that your 2017 fiscal year end comprehensive annual financial report (CAFR) qualifies for GFOA's Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment. Congratulations for having satisfied the high standards of the program. We hope that your example will encourage others in their efforts to achieve and maintain an appropriate standard of excellence in financial reporting.

A "Summary of Grading" form and a confidential list of comments and suggestions for possible improvements are enclosed. We want to strongly encourage the recommended improvements be made in the next report, and that the report be submitted to the program within six months of your next fiscal year end. Certificate of Achievement Program policy requires that written responses to the comments and suggestions for improvement accompany the next fiscal year's submission. The written responses should provide details about how each item is addressed within this report. These responses will be provided to those Special Review Committee members participating in the review. If a comment is unclear or there appears to be a discrepancy, please contact the Technical Services Center at (312) 977-9700 and ask to speak with a Certificate of Achievement Program in-house reviewer.

When a Certificate of Achievement for Excellence in Financial Reporting is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. An AFRA is enclosed for the preparer as designated on the application.

Continuing participants will find a brass medallion enclosed with these results. First-time recipients will receive a plaque in about 10 weeks. We hope that appropriate publicity will be given to this notable achievement. A sample news release has been enclosed.

A current holder of a Certificate of Achievement may include a reproduction of the Certificate in its immediately subsequent CAFR. A camera-ready copy of your Certificate is enclosed for that purpose. If you reproduce your Certificate in your next report, please refer to the enclosed instructions. A Certificate of Achievement is valid for a period of one year.

A Certificate of Achievement Program application is posted on GFOA's website. This application must be completed and accompany your next submission. See sections III and IV of the application for instructions. **The entity's GFOA membership number appears on the attached comments and must be listed on the application.** Your continued interest in and support of the Certificate of Achievement Program is most appreciated. If we may be of any further assistance, please contact the Technical Services Center at (312) 977-9700.

Sincerely,

Michele Mark Levine

Michele Mark Levine
Director, Technical Services Center

Certificate of Achievement For Excellence in Financial Reporting
Summary of Grading

Name of Unit: City of Brooklyn Center
Fiscal Year of Report FY2017 Report # 3,317.00 GFOA Member ID Number 26245003

The Certificate of Achievement Program Special Review Committee (SRC) has completed its review of your comprehensive annual financial report (CAFR). Listed below are the grading categories used and a summary of the SRC's evaluation of your CAFR. The detailed comments and suggestions for reporting improvements on the attached listing are grouped under similar grading categories. Any category which received a grade of "Needs Significant Improvement" indicates an area of particular concern to the SRC and the related comments and suggestions for improvement in this category should be given special attention. An indication is provided on the list by the specific comments(s) or category(ies) that were the cause of receiving this grade. For each item, the notation also states whether it is 1) the basis or part of the basis for the CAFR not receiving the Certificate of Achievement, 2) a serious deficiency which will almost certainly preclude the awarding of the Certificate of Achievement if it is not corrected in your next CAFR, or 3) a deficiency, that if not corrected in future CAFRs, could result in the Certificate of Achievement not being awarded.

Grading Category	Grade
Cover, table of contents, and formatting	Proficient
Introductory section	Proficient
Report of the independent auditor	Proficient
Management's discussion and analysis (MD&A)	Proficient
Basic financial statements (preliminary considerations)	Proficient
Government-wide financial statements	Proficient
Fund financial statements (general considerations)	Proficient
Governmental fund financial statements	Proficient
Proprietary fund financial statements	Proficient
Fiduciary fund financial statements	Not Applicable
Summary of significant accounting policies (SSAP)	Proficient
Note disclosure (other than the SSAP and pension-related disclosures)	Proficient
Pension-related note disclosures	Proficient
Required supplementary information (RSI)	Proficient
Combining and individual fund information and other supplementary information	Proficient
Statistical section	Proficient
Other considerations	Proficient

The Government Finance Officers Association of the United States and Canada

presents this

AWARD OF FINANCIAL REPORTING ACHIEVEMENT

to

Department of Fiscal and Support Services

Finance Division

City of Brooklyn Center, Minnesota

The award of Financial Reporting Achievement is presented by the Government Finance Officers Association to the individual(s) designated as instrumental in their government unit achieving a Certificate of Achievement for Excellence in Financial Reporting. A Certificate of Achievement is presented to those government units whose annual financial reports are judged to adhere to program standards and represents the highest award in government financial reporting.

Executive Director

Christopher P. Morrill

Date November 21, 2018

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Tim Gannon, Chief of Police

SUBJECT: An Ordinance Amending Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations

Requested Council Action:

- *Motion to open public hearing*
- *Take public input*
- *Motion to close the public hearing*
- *Motion to approve the Second Reading, adopt an Ordinance authorizing amendments to Chapter 23 of the Brooklyn Center City Code Regarding Hospitality Accommodations*

Background:

At the December 10, 2018, City Council meeting a first reading of the proposed changes to the Hospitality Ordinance was presented. City staff presented the ordinance inclusive of the following changes.

1. All references to the word "transient" have been changed to "hospitality."
2. Six basic best practices were identified and applied to all lodging hospitality businesses within the City:
A. A clearly written Check-in Policy which requires a credit/debit card to reserve a room and guarantee payment at check-in.
B. A guest registry which includes name and home address of the primary guest; make, model, and license plate of vehicle; and form of payment.
C. Provide an annual training to all staff in cooperation with the City of Brooklyn Center.
D. Ensure that all officers of the ownership group, managers, and other responsible employees shall provide their name, address, email, and telephone number to the City.
E. A manager or other responsible employee must be on premises at all times.
F. A policy to inspect rooms of guests who refuse maid service for three consecutive days or behave suspiciously in a manner that the hospitality staff, based on training and experience, could reasonably suspect is not lawful.

3. The definition of a 'call for service' related to this ordinance was reiterated: "A call for service – is any criminal activity or violation of city code requiring a police response; except domestics and proactive policing measures, observed by the City concerning a lodging hospitality business and is responded to by the City." Only a call for service that is verified by the responding police officer as being a valid call for service shall be included in the annual calls for service calculation.

4. We will utilize a point system for the 'annual calls for service.' The method to determine annual calls for service is calculated by the total number of points per police call type in a year using the enhanced point system. Dividing that result by the number of rooms in that specific lodging hospitality business. This process will specifically identify each police call and assign an appropriate point total based on the severity of the

incident.

5. The proposed ‘enhanced point system’ is as follows:
5 Points Violent Crime
3 Points Other Part 1 Crime
2 Points Part 2 Crimes and All Other Calls for Service (Per Ordinance)
-1 Point Hotel/Motel Employee Calls for Police **One point would be removed per occurrence.

6. A Health and Safety Inspection form is attached. This form would be utilized for only those lodging hospitality businesses that have a Level 2 or 3 license type, based on their police calls for service history. The inspections will be conducted by the City’s housing and community standards department staff in partnership with police department staff.

It is believed that the modifications to the ordinance will have a positive impact by decreasing public safety calls for service and increasing safety for all who visit Brooklyn Center’s lodging hospitality businesses as well as their employees.

Please note in Section 23-2409 Item F. the term transient was still written in the first reading of the ordinance. This second reading has it amended to hospitality.

Budget Issues:

The additional safety and health inspection required for the Level 2 or 3 licensed properties will involve staff from Housing and Community Standards. A review of the current and potential lodging hospitality business statistics on any given year the inspections may be necessary for two or three lodging hospitality business properties located within the City. Based on an evaluation of a Housing and Community Standard staff study, no additional staff would be needed to conduct the health and safety inspections. As such there are no budget issues to report.

Strategic Priorities and Values:

Enhanced Community Image, Safe, Secure, Stable Community

CITY OF BROOKLYN CENTER

ORDINANCE NO. 2018-17

AN ORDINANCE AMENDING CHAPTER 23 OF THE BROOKLYN CENTER CITY CODE REGARDING HOSPITALITY ACCOMMODATIONS

THE CITY OF BROOKLYN CENTER DOES ORDAIN:

Article I. Brooklyn Center City Code, Chapter 23, Sections 23-2400 through 23-2415 are hereby amended by deleting them in their entirety and replacing them with the following:

HOSPITALITY ACCOMMODATIONS

Section 23-2400. PURPOSE. It is the purpose of these Sections 23-2400 through 23-2415 to ensure that hotels and motels (referred to collectively in these Sections as a "hospitality accommodation") are complying with certain minimum standards and are implementing measures as may be needed to discourage the use of their facilities for criminal activities in order to protect the safety of their guests and the public. Those owning and operating hospitality accommodations in the City have a responsibility to ensure their guests and visitors have accommodations that are safe, secure, free from unreasonable noise, nuisances, and threats to their safety and security.

Section 23-2401. LICENSE REQUIRED. It is unlawful for any person, firm, or corporation to operate a hospitality accommodation in the City without a hospitality accommodation license issued pursuant to Sections 23-2400 through 23-2415. A separate license is required for each hospitality accommodation property.

Section 23-2402. DEFINITIONS

A. :Annual calls for service" – The aggregate total of all the points, specified in Section 23-2404(E), assigned to the calls for service to a hospitality accommodation property in a calendar year divided by the total number of lodging units in the hospitality accommodation as determined by the City.

B. "Call for service" – Includes any of the following:

1. Any report made to the police department of criminal activity or violation of the city code requiring a police response from or concerning a hospitality accommodation in connection with an incident occurring at that hospitality accommodation property, except calls of domestic assault; or

2. Any incident observed by police concerning a hospitality accommodation property and is responded to by a police officer.

Only a call for service that is verified by the responding police officer as being a valid call for service shall be included in the annual calls for service calculation for the purposes of these Sections 23-2400 through 23-2415.

C. "Hospitality accommodation" – Any facility such as a hotel, motel, condominium, resort, or any other facility or place offering six or more lodging units to guests for periods of less than thirty days, but not including jails, hospitals, care facilities, senior living centers, residential treatment facilities, prisons, detention homes, and similar facilities.

D. "Hospitality accommodation property" – Any land containing a facility for hospitality accommodation including any associated parking areas, recreation areas, loading areas, or other amenities located on the same parcel of property.

E. "Hospitality accommodation license" or "license" – A license issued by the City to a level I hospitality accommodation, a level II hospitality accommodation, or a level III hospitality accommodation.

F. "Level I hospitality accommodation" – Any hospitality accommodation whose annual calls for service are less than .20 calls per lodging unit.

G. "Level II hospitality accommodation" – Any hospitality accommodation whose annual calls for service are at least .20 calls per lodging unit, but less than .40 calls per lodging unit.

H. "Level III hospitality accommodation" – Any hospitality accommodation whose annual calls for service are at least .40 calls per lodging unit or greater.

I. "Lodging unit" – One self-contained unit within a hospitality accommodation designated by number, letter, or some other method of identification that is designed or used for overnight accommodations. A lodging unit shall not include areas or rooms not utilized for overnight accommodations such as banquet rooms, meeting rooms, business centers, pool areas, and workout rooms.

J. "Part 1 crime" – Any crime identified in the Uniform Crime Reporting Program as a Part 1 crime, but which does not constitute a "violent crime" as defined in this Section. Part 1 crimes include, but are not necessarily limited to, theft, auto theft, burglary, or arson (first, second, or third degree).

K. "Police department" – The City of Brooklyn Center Police Department.

L. "Property safety inspection" – An annual inspection of level II and level III hospitality accommodations conducted by the City based on a hospitality accommodation inspection checklist developed by the City and adopted by the City Council.

M. "Violent crime" – Is any homicide (any degree), robbery, criminal sexual conduct (first, second, or third degree), or assault (first, second, or third degree).

Section 23-2403. RESTRICTIONS ON ISSUING LICENSES. A hospitality accommodation license shall not be issued or renewed if any of the following circumstances exist:

A. The applicant submits an incomplete license application or fails to submit the required application fee;

B. The applicant is untruthful in any of the information provided to the City as part of its request for a license;

C. The hospitality accommodation is not in compliance with the requirements associated with the particular license level applicable to the hospitality accommodation;

D. The applicant has failed to correct any violations noted in a correction order issued as a result of safety inspection required under Section 23-2412; or

E. The hospitality accommodation property is not in compliance with any applicable federal, state, or local law, rule, regulation, or ordinance.

Section 23-2404. LICENSING PROCESS AND RENEWAL. The level of a hospitality accommodation license shall be determined and the licensed shall be issued in accordance with this Section.

A. A new hospitality accommodation shall obtain a hospitality accommodation license from the City prior to opening for business. A new hospitality accommodation that had not previously operated within the City shall initially qualify for a level I hospitality accommodation license. The City may charge a reduced license fee for a new hospitality accommodation license based on the number of months remaining in the particular licensing period.

B. The annual renewal of a hospitality accommodation license shall be in accordance with the following timelines:

1. By February 1st the City shall notify each existing hospitality accommodation in writing of its annual calls for service for the previous year and the level of hospitality accommodation license for which it must apply;

2. By April 1st each hospitality accommodation shall submit to the City a complete application for the appropriate level of license;

3. By May 1st each hospitality accommodation must obtain the required level of hospitality accommodation license from the City; and

4. By June 1st each hospitality accommodation shall be in full compliance with any conditions placed on the license by the City Council, unless a different compliance date is indicated in the license or a provisional license is issued because of change in licensing levels.

C. The City Council shall issue a hospitality accommodation license upon submission of a complete application, payment of applicable fees, compliance with the applicable special requirements, compliance with any correction orders, and proper licensing with all applicable government agencies, including the Minnesota Department of Health.

D. If a hospitality accommodation is required, based on its annual calls for service, to transition to a stricter licensing level, the City Council may issue a provisional license to allow additional time for the hospitality accommodation to come into compliance with the additional special requirements applicable to the new level. The hospitality accommodation is required to come into full compliance with the requirements applicable to the new license level and any additional conditions placed on the license by the City Council by the date indicated in the provisional license. The City shall conduct an inspection and if it determines the hospitality accommodation has complied, the license automatically becomes a regular license for the particular license level without further action by the City. If the hospitality accommodation is not in compliance by the date indicated, the provisional license shall terminate unless the City Council acts to extend it. Any such extension approved by the City Council shall be subject to any additional conditions the City Council may place on the license.

E. The following scale shall be used to calculate the number of points assigned to a hospitality accommodation for the calls of service to determine the level of license the hospitality accommodation is required to obtain.

Type of Call for Service	**Points**
Violent crime	5 Points
Part 1 crime	3 Points
Any other call for service	2 Points

If an employee of the hospitality accommodation originated the call for service, the number of points assigned to the particular call for service shall be reduced by one point.

F. To determine the type of hospitality accommodation licenses required, the City shall divide the annual calls for service at a hospitality accommodation, calculated using the point system set out in paragraph E of this Section, by the total number of lodging units in the hospitality accommodation.

G. A hospitality accommodation may be subject to a property safety inspection as provided in Section 23-2412 and any such hospitality accommodation shall comply with any correction orders issued as a result of the inspection.

H. Failure of a hospitality accommodation to comply with the requirements applicable to the license level, any additional conditions issued by the City Council, or a correction order shall constitute sufficient grounds for the revocation, suspension, or nonrenewal of the hospitality accommodation license.

Section 23-2405. LICENSE FEE. The fee for a hospitality accommodation license shall be as set forth by City Council resolution. The City Council may establish a separate fee for each licensing level.

Section 23-2406. LICENSE PERIOD. All hospitality accommodation licenses shall expire on April 30 each year and must be renewed in accordance with Section 23-2404.

Section 23-2407. TRANSFER OF LICENSES. A hospitality accommodation license may be transferred to a new owner of a hospitality accommodation continuing to operate on the same hospitality accommodation property for which the license was issued. The transfer shall not affect the current license level and the calls for service that occurred prior to the transfer shall be used in calculating the license level at renewal. Written notice of the transfer shall be provided to the City within ten business days after the transfer. The notice shall include the name and address of the person, firm, or corporation taking ownership or control of the hospitality accommodation. A hospitality accommodation license shall not be transferred or relocated to a hospitality accommodation located on a different site.

Section 23-2408. LEVEL I HOSPITALITY ACCOMMODATION. A level I hospitality accommodation is required to meet the special requirements in this Section, which constitute the minimum performance standards for all hospitality accommodations.

A. Have clear check-in policies that, at a minimum, require all guests reserving or renting a room to use a credit card to guarantee the reservation or rental.

B. Provide and keep a register for the registration of all guests, and every guest must be registered. Upon the arrival of each guest, the operator of the hospitality accommodation must require the guest to provide the name and home address of the guest and every person with the guest as a member of the party, and if the guest is traveling by motor vehicle, the make of the vehicle and license plate number, including the name of the state or country issuing the license plate. The method of payment must be noted as part of the registration information. The registration information must be recorded in the guest register and kept in an accurate and orderly manner. The guest register must be retained for one year and made available for inspection by the City upon reasonable request.

C. Work cooperatively with the City to provide training no less than annually to all staff members directly involved in registering guests and housekeeping staff.

D. Provide the City the name, address, e-mail address, and telephone number of the president, vice-president, secretary, and treasurer of the ownership group of the hospitality accommodation.

E. Provide the City the name, e-mail address, and telephone number of all managers and other responsible employees of the hospitality accommodation.

F. Require a manager or other responsible employee to be on premises of the hospitality accommodation property at all times.

G. Inspect rooms of guests who refuse housekeeping service for three consecutive days or who behave suspiciously in a manner staff reasonably suspect, based on training and experience, may be engaged in unlawful activity.

Section 23-2409. LEVEL II HOSPITALITY ACCOMMODATION. A level II hospitality accommodation is required to meet the special requirements required of a level I hospitality accommodation and the additional special requirements in this Section, which are designed to deter crime, in order to be eligible for a hospitality accommodation license, and shall comply with any conditions the City Council may impose on the license.

A. Submit a management plan to the City detailing steps the hospitality accommodation intends to take to reduce criminal activity.

B. Consult with the police department to obtain such inspection services and advice regarding crime prevention as may be needed to address the types and calls for service made to the hospitality accommodation property.

C. Consult with the police department to keep apprised of police activity occurring on the hospitality accommodation property.

D. Install and operate a surveillance camera, with a recorder, in the lobby at all times.

E. Consult with the police department to undergo a "crime prevention through environmental design" (CPTED) inspection and incorporate the findings into the hospitality accommodation property.

F. Issue parking passes to all vehicles allowed to park on the hospitality accommodation property, each pass marked with an issued date and expiration date.

G. Submit to semi-annual audits by the City to verify compliance with the requirements of this Section.

Section 23-2410. LEVEL III HOSPITALITY ACCOMMODATIONS. A level III hospitality accommodation is required to meet the special requirements of a level II hospitality accommodation, and including those applicable to a level I hospitality accommodation, and the additional special requirements in this Section, which are designed to deter crime, to be eligible for a hospitality accommodation license, and shall comply with any conditions the City Council may impose on the license.

A. Conduct background checks on all owners, managers, and employees of the hospitality accommodation in accordance with Section 23-2411.

B. Enforce the following guest rules:

1. Lodging units cannot be rented for less than a six-hour period;

2. Prohibit guests from producing loud noises that unreasonably disturb the tranquility of the other guests or those adjacent to the hospitality accommodation property; and

3. Alcohol may not be consumed in common areas except for designated banquet or reception rooms or areas.

C. Remove all graffiti and repair all vandalism within seven days of occurrence.

D. Install lighting in all common areas with minimum maintained lighting of 1.5 foot-candles at ground level.

E. Install and continually operate video monitoring equipment in all parking lots on the hospitality accommodation property that are monitored and recorded at the front desk at all times.

F. Have a licensed, armed, and uniformed security guard on the premises every day from 6:00 p.m. until 6:00 a.m.

Section 23-2411. BACKGROUND CHECKS.

A. A hospitality accommodation required to conduct background checks on its owners, managers, and employees, such background checks must comply with and include the following:

1. A Minnesota statewide criminal history check covering at least the last three years, which must be conducted by a company providing criminal history check services utilizing the most recent update of the Minnesota criminal history files;

2. A statewide criminal history check from the person's previous states of residence covering the last three years if the person has not resided in Minnesota for at least the three years preceding the history check; and

3. A criminal history check conducted in all seven counties in the Twin Cities metropolitan area (the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) covering at least the last three years, including all misdemeanor, gross misdemeanor, and felony convictions.

B. The hospitality accommodation shall retain the criminal history check information for the duration of the person's employment, but in no case less than two years, and shall make the information available for inspection upon request by the City Manager or the City Manager's designee.

Section 23-2412. PROPERTY SAFETY INSPECTION. The City shall conduct property safety inspections in accordance with the provisions of this Section.

A. The City shall annually conduct a property safety inspection of all level II and level III hospitality accommodations for the purpose of enforcing the property maintenance code and the standards in this Section. The property safety inspection is required prior to the issuance of a level II or level III hospitality accommodation licenses. The City may at all reasonable times enter and inspect all lodging units, common areas, and operational areas of the hospitality accommodation. Except when otherwise authorized by law or in an emergency, the City shall not inspect an occupied lodging unit without the consent of the occupant.

B. Property safety inspections shall include the following:

1. At least 15% of all lodging units in the hospitality accommodation shall be inspected. The City shall determine which lodging units to inspect and shall rotate the lodging units inspected to ensure all lodging units will be inspected periodically;

2. All common areas and operational areas of a hospitality accommodation shall be inspected as part of each property safety inspection; and

3. The inspection shall be based on a hospitality accommodation inspection checklist and the City shall inspect each item on the list during each inspection.

C. Any violations found during the property safety inspection shall be corrected in the timeframe established in the correction order issued by the City. The City shall conduct a reinspection of the hospitality accommodation to confirm

compliance with the correction order. Failure to correct any of the violations noted in a correction order within the established timeframe may result in the suspension, revocation, or nonrenewal of the hospitality accommodation license as provided in Section 23-2413.

Section 23-2413. REVOCATION AND SUSPENSION OF LICENSE. A hospitality accommodation license may be revoked, suspended, or not renewed by the City Council, upon recommendation of the City Manager, in accordance with this Section.

A. The City Council may revoke, suspend, or not renew a hospitality accommodation license upon any of the following grounds:

1. A false statement, misrepresentation, or fraudulent statement on any application or other information or report required by these Sections 23-2400 through 23-2415;

2. Failure to pay the application fee, fine, penalty, reinstatement fee, special assessment, real estate taxes, or other financial claim due to the City under this Code;

3. Failure to comply with any of the special requirements applicable to the level of license held by the hospitality accommodation;

4. Failure to comply with any of the conditions placed on the license by the City Council;

5. Failure to comply with any part of a correction order resulting from a property safety inspection within the timeframe indicated in the order;

6. Failure to continuously comply with any zoning, health, building, nuisance, or other Code requirements;

7. Failure to obtain or maintain any licenses required for the hospitality accommodation; or

8. Failure to comply with any other applicable federal, state, or local law, rule, regulation, or ordinance.

B. A decision to revoke, suspend, or not renew a hospitality accommodation license shall be preceded by written notice to the applicant or licensee of the alleged grounds therefor and the applicant or licensee will be given an opportunity to request a hearing before the City Council before final action is taken to revoke, suspend, or not renew the license. An applicant or licensee waives its right to a hearing if it fails to submit a written request for a hearing to the City within ten days of the issuance of the written notice. If a timely request for a hearing is received, the City Council shall conduct a hearing at the next regularly scheduled

City Council meeting and provide the applicant or licensee an opportunity to be heard.

C. The written decision to revoke, suspend, or not renew a hospitality accommodation license shall identify the specific grounds for the decision. Upon issuance of the written decision, no lodging unit within the hospitality accommodation may be offered or used for any period of time by guests until a new hospitality accommodation licenses is issued in accordance with Section 23-2414.

Section 23-2414. REAPPLICATION AFTER LICENSE ACTION. Reapplication for a hospitality accommodation license after the City Council has revoked, suspended, or not renewed a license shall be in accordance with this Section.

A. A hospitality accommodation license may be suspended for up to ninety (90) days and may, after the period of suspension, be reinstated subject to compliance with these Sections 23-2400 through 23-2415 and any conditions imposed by the City Council at the time of suspension.

B. A hospitality accommodation license revoked or not renewed by the City Council will not be reinstated or issued until the owner has applied for and secured a new hospitality accommodation license and complied with all conditions imposed at the time of revocation or nonrenewal. The City Council may impose a period following the revocation or nonrenewal of the owner's previous license during which a new hospitality accommodation license may not be submitted. A decision not to renew a hospitality accommodation license may take the form of a suspension or revocation.

C. An application for a new hospitality accommodation license following the revocation, suspension, or nonrenewal of the license must be accompanied by a reinstatement fee, as specified by City Council resolution, in addition to all other application and related fees.

D. The conditions of approval of any subsequent application for a license to operate a hospitality accommodation on the same property following a period of revocation or denial of renewal of a hospitality accommodation license shall be based upon the hospitality accommodation property's history of annual calls for service prior to the revocation or non-renewal.

E. No subsequent application for a hospitality accommodation license on the same property following a period of revocation or nonrenewal shall be approved unless the applicant presents a corrective action plan that is approved by the City to help ensure the conditions and causes of the prior revocation or nonrenewal are appropriately addressed. Implementation of, and compliance with, the corrective action plan shall be a condition of the license.

Section 23-2415. VIOLATIONS.

A. Any person, firm, or corporation who violates any provision of these Sections 23-2400 through 23-2415 is, upon conviction, guilty of a misdemeanor. The penalty that may be imposed for a misdemeanor is a sentence of not more than 90 days or a fine of not more than $1,000, or both. Each day upon which a violation of these Sections 23-2400 through 23-2415 occurs constitutes a separate offense.

B. In lieu of issuing a criminal citation, the City may issue an administrative citation and impose a civil penalty on any person, firm, or corporation who violates any provision of these Sections 23-2400 through 23-2415.

C. Any person required to register at a hospitality accommodation who intentionally presents false identification, provides a false or assumed name, or otherwise provides false guest register information is guilty of a misdemeanor.

D. Nothing in this Section shall be construed as a waiver of any applicable state license requirements or from compliance with all applicable civil and criminal laws.

Article II. Brooklyn Center City Code, Chapter 23, Section 23-006.05 is hereby amended as follows:

Section 23-006.05. PAYMENT OF PROPERTY TAXES REQUIRED. No license shall be granted or renewed for tobacco related products; bowling alleys; public dancing; filling stations; pawnbrokers; secondhand goods dealers; motor vehicle dealerships; saunas and sauna baths; massage parlors; rap parlors, conversation parlors, adult encounter groups, adult sensitivity groups, escort services, model services, dancing services, or hostess services; hospitality accommodations; or amusement devices for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes, Section 278.01 through 278.03, questioning the amount or validity of taxes, the City Council may on application waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof which remain unpaid for a period exceeding one (1) year after becoming due.

Article III. Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ___ day of _____, 2019.

_____
Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

City of Brooklyn Center
Hospitality Accommodation
Inspection Checklist

Business Name/Address _____ Inspection Date _____

Manager/Supervisor Name _____ No. of Rooms Inspected _____

Interior Requirements

__ 1. Floors: hallways, stairways, guest rooms, bathrooms and store rooms are clean, sanitary, smooth, in good repair, and approved coverage.

__ 2. Walls and ceilings: hallways, stairways, guest rooms, bathrooms and store rooms are cleaned, painted, and in good repair.

__ 3. Studs, joists, rafters are not exposed except when suitable. Finished and kept clean.

__ 4. Windows are properly screened.

__ 5. All rooms and hallways used by patrons are well lit.

__ 6. Rooms are ventilated outside.

__ 7. Tempered, make-up air during winter.

__ 8. All rooms meet minimum heat requirements

Bathroom Requirements

__ 9. Toilet is in good repair.

__ 10. Shower/Tub is in good repair.

__ 11. Approved source of water and adequate supply under pressure.

__ 12. Hot water does not exceed 130 degrees Fahrenheit.

Plumbing and Swimming

__ 13. RPZ inspection report is made available.

__14. Water Softener clean and maintained.

__15. Water heaters are in good repair.

__ 16. Public pools and facilities inspection report made available.

Units (15% of all reviewed)

__ 17. Door locks (dead bolt).

__ 18. Window security on all windows.

__ 19. Number clearly identified at each unit.

__ 20. Eye views in each door.

__ 21. Striker plate and screws in place.

__ 22. Smoke and CO Alarms in operable condition.

Common Areas

__ 23. Surveillance in working order (if required or provided by the property owner).

__ 24. No Trespass signs at all entrances and/or placed in locations that can be clearly seen by all guests and visitors.

__ 25. Proper lighting.

__ 26. Elevator inspection report is available onsite

__27. Fire inspection report is available onsite

__28. Building, plumbing, mechanical, electrical and other building permits are closed out

__29. Utility rooms are clear of storage and mechanical and electrical equipment is accessible

Property Exterior

__ 30. Ground cover plants do not exceed three feet in height.

__ 31. Plants under windows are maintained at a height that is below the windowsill.

__ 32. Trees are trimmed so the lower branches are at least five feet off the ground.

__ 33. Landscaping does not interfere with lighting distribution.

__ 34. Surveillance in working order

__35. Ground cover such as mulch and rock is adequate to provide cover.

__ 36. Property/facility free of litter and rubbish.

__ 37. Garbage receptacles are clean and in good repair.

__38. Trash enclosures are properly screened and in good repair.

__ 39. Exterior lighting is operable and functional:

- __ Building exterior.
- __ Trash enclosures.
- __ Entry and exit points.
- __ Parking lots.

Comments/Correction Orders

The above must be corrected as indicated. Failure to comply may result in further action.

Date: _____

Received By. _____

Community Development
6301 Shingle Creek Pkwy
www.cityofbrooklyncenter.org

763-569-3330 - Phone
763-569-3360 - Fax

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING SUMMARY PUBLICATION FOR ORDINANCE 2018-17

WHEREAS, the City Council of the City of Brooklyn Center has adopted the above referenced ordinance concerning Hospitality Accommodations; and

WHEREAS, Minnesota Statutes, section 412.191, subdivision 4 allows publication by title and summary in the case of lengthy ordinances or those containing maps or charts; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent of Ordinance 2018-17.

NOW, THEREFORE, BE IT RESOLVED that: the following summary of Ordinance 2018-17 shall be published in the official newspaper in lieu of the entire ordinance.

SUMMARY PUBLICATION
Ordinance 2018-17

An Ordinance Amending Chapter 23, Sections 23-2400 through 23-2415 on January 14, 2019.

The amended ordinance elements include:

- Minimum standards for hospitality accommodations
- Operating a hospitality accommodations have responsibility to ensure their guests and visitors have safe and secure accommodations

January 14, 2019 _____
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: An Ordinance Amending Chapter 12 of the City Code of Ordinances Regarding Tenant Protections - Second Reading and Public Hearing

Requested Council Action:

- Motion to open public hearing, take public comment, and close public hearing

- Motion to approve the second reading and adopt an ordinance amending Chapter 12 of the City Code of Ordinances regarding tenant protections and approve a resolution amending the fee schedule relating to Administrative Penalties

- Motion to approve a resolution approving the Summary Publication of the adopted ordinance

Background:

At a work session on April 9, 2018, the City Council reviewed numerous policies relating to affordable housing. The policies were presented to the Council and staff at an earlier Council meeting by affordable housing advocates who have been working with multiple cities around the region on similar efforts. These policies have been designed to address specific problems related to the creation of new affordable units, the preservation of existing affordable housing, and the protection of tenant's rights.

Based on that discussion, Council directed staff to monitor the landlord lawsuit against the City of Minneapolis related to the acceptance of Section 8 Vouchers. Since that meeting, the ordinance was struck down, which would have prohibited landlords from banning Section 8 Voucher holders from submitting a rental application. Minneapolis is appealing the decision. Staff will continue to monitor the process and will bring the item back to Council should a higher court make a different determination.

At the work session, Staff also presented information on a Tenant Protection Ordinance, which had recently been drafted by the City of St. Louis Park. The City Council directed staff to proceed with researching and drafting a Tenant Protection Ordinance for further consideration by Council.

At the November 13, 2018, City Council work session staff presented additional information about the Tenant Protection Ordinance, including a draft of an ordinance which was modeled after similar ordinances which had sine been adopted by the cities of St. Louis Park, Richfield, and Bloomington. At that meeting staff were directed to bring the Tenant Protection Ordinance to the Housing Commission for review and recommendation.

The Housing Commission reviewed the ordinance at their November 20, 2018, meeting. The Housing Commission unanimously passed a motion to recommend approval of the Tenant Protection Ordinance. The Housing Commission did make the following recommended changes which have been reflected in the updated

ordinance.

1. Increase the income requirement to 80% of the area median income (AMI) and remove the minimum 20% of units requirement. Therefore, requiring protection for any unit that qualifies based on income.
2. Section 12-912D.2.a.8. Change language to require notice to tenant if modifications to lease will be made within 30 days after the 90-day tenant protection period ends. The previous language required notification only if the landlord intended to make modifications to the lease the day following the end of the 90-day tenant protection period.
3. Section 36a. Clarification on how many months the tenant protection period would be when 3 months totals 89 days.
4. 12-912D.2.D. Adjust wording for delivering the notice to the City. For example, if the landlord hand delivers the notice to tenants, they can still provide the notice to the City by mail.

On December 10, 2018 the City Council approved the 1st reading of the ordinance and called for a public hearing on January 14, 2018.

Affordable Housing Definition
The Metropolitan Council annually sets affordability limits based on area median income (AMI). Rents are considered affordable when they cost 30 percent or less of an individual or family's income. The Metropolitan Council defines affordable rents as those that would be affordable to an individual or family earning 80 percent AMI or less.

2018 Metropolitan Council Affordability Limits

# of Bedrooms	30% AMI	50% AMI	60% AMI	80% AMI
Efficiency	$474	$791	$949	$1,265
1-Bedroom	$508	$848	$1,017	$1,356
2-Bedroom	$610	$1,017	$1,220	$1,627
3-Bedroom	$705	$1,175	$1,410	$1,880
4-Bedroom	$786	$1,311	$1,573	$2,097

The original draft of the Tenant Protection Ordinance would have applied to multi-family properties that had at least 20 percent of the units affordable at the 60 percent AMI limit. The Housing Commission recommended that these percentages be adjusted so that the Ordinance would apply to multi-family properties with any number of units that were affordable up to the 80 percent AMI limit.

The effect of this change is that, because the average rents in Brooklyn Center are affordable at the 50 percent AMI limit, this Ordinance will likely apply to all multi-family rental properties in the City. Further, the rent ceiling is high enough that it is unlikely landlords would be able to raise rents enough to avoid having to comply with the Ordinance.

Tenant Protection Ordinance Overview
As the value of rental property has increased throughout the Twin Cities Region, so has investment interest. As properties change hands it is common for new owners to make capital improvements and increase rents, change screening criteria, or alter other aspects of the lease agreement which force existing tenants out of the building. The purpose of the Tenant Protection Ordinance is to essentially freeze the terms of the existing lease for a 90 day period of time, allowing tenants time to relocate should they need to.

The ordinance requires a new owner of a property with three or more units, and with rents which are considered affordable, to pay relocation benefits to tenants if the new owner increases rent, re-screens existing residents resulting in tenants relocating from the property, implements non-renewals without cause within 3 months after the purchase, or materially changes the terms of the lease resulting in the tenant relocating from the property. The ordinance would require new buyers to notify tenants within 30 days if substantive changes to

the lease are forthcoming, giving tenants time to relocate if necessary.

The ordinance defines "Cause" as the renter violating a provision of the City's rental housing provisions, nonpayment of rent, malicious destruction of property, or disturbing the peace. This means that a new landlord would not be able to non-renew a lease except for these reasons during the tenant protection period. A landlord would still be able to evict a tenant through the typical legal process.

The ordinance lays out a specific notification process that includes both notification of the tenants and the City when new ownership of the property occurs.

Enforcement
One aspect of the ordinance that staff continues to have concerns about relates to the enforcement of it in situations where a tenant feels they are owed relocation benefits, but the landlord feels they do not. None of the other cities that have adopted similar ordinances have dealt with this issue directly within the ordinance. While the City can require documentation from the landlord that they have met the notification requirements to the tenants, if a dispute arises, the City is not in a position to mediate that dispute. In that situation the remedy for a tenant who feels that the ordinance has been violated would be through the courts. Taking a landlord to court can be a costly and onerous process that tenants may not choose to pursue.

The City Attorney has provided information relating to what actions a tenant may take in this situation. There is no clear legal path on this type of tenant action because it would be new to the court system.

New owners in all likelihood will simply wait the 90 days to make the alterations to any lease terms that they intend to make and relocation benefits will never need to be paid, so the issue of enforcement will likely rarely come up.

Stakeholder Review and Input
Staff have provided the draft ordinance to Homeline for review. They appreciate that Brooklyn Center has implemented the changes Homeline recommended. However, they suggested that the City also consider adding a 60-day advance notice of proposed sale. Homeline suggests *"that provision is very important because it actually gives tenants very critical information about the stability of their housing. While it could end up being difficult to enforce, more broadly we believe it is a clear demonstration of the interest the city has in supporting a significant portion of the population."*

Staff reviewed the advance notice of sale policy with the Council at the April work session and expressed concerns for the policy at that time. Staff's primary concern is the management of the information related to the notice of sale, how it is maintained, who it is distributed to, and the City's liability to do so. In addition, the advanced notice of sale policy runs the risk of interfering with the sale of property, and landlords have expressed strong concern over its unintended consequences of deterring sales and unduly increasing the cost of acquisitions.

In response to the Tenant Protection Ordinance, staff reached out to several landlords in the community to ask them to provide input on the proposed ordinance. Generally, those talked to expressed an overall concern about the ordinance and its possible unintended consequences, but acknowledged that it was likely manageable. Concerns raised included:

- Landlords who can will increase rents to push their properties outside the purview of the ordinance.
- The ordinance will increase acquisition costs by adding additional carrying costs on the first 90 days which may dissuade buyers.
- The ordinance adds costs for buyers to complete their due diligence on a property and, because the ordinance is new, adds uncertainty with the compliance procedures.
- Landlords noted that the housing market is cyclical and, though there is an affordable housing issue right now, that the vacancy rate would eventually stabilize back up so that displacement and affordability

would not always be such a large concern.
- Landlords commented that Brooklyn Center's housing market was unique in that, while this ordinance would affect most rental properties because of the large amount of affordable rental units in the City, displacement was not as large of an issue here as it is in communities where there are very few affordable rental units, and so the ordinance may not be as necessary.

Next Steps
If the Council approves the second reading of the ordinance it will go into effect on February 13, 2019.

Attached to this report is the proposed Tenant Protection Ordinance, which was drafted by the City Attorney.

Also attached is the November 20, 2018 Housing Commission packet which includes previous memos to the City Council on the topic, as well as background information on housing in Brooklyn Center.

Budget Issues:

There will be staff time relating to the enforcement of the ordinance. However, it is not currently anticipated that the additional workload will result in additional staff.

Strategic Priorities and Values:

Resident Economic Stability

CITY OF BROOKLYN CENTER

ORDINANCE NO. 2018-18

AN ORDINANCE AMENDING CHAPTER 12 OF THE CITY CODE OF ORDINANCES REGARDING TENANT PROTECTIONS

THE CITY OF BROOKLYN CENTER DOES ORDAIN:

Article I. Brooklyn Center City Code, Section 12-201 is amended as follows:

2a. Affordable Housing Building – a multifamily rental dwelling, as defined in Section 12-201(26), having three or more dwelling units and where any of the units rent for an amount that is affordable to households at or below 80% of area median income, as median income is most recently determined by the United States Department of Housing and Urban Development for the Minneapolis-St. Paul-Bloomington, Minnesota-Wisconsin Metropolitan Statistical Area, as adjusted for household size and number of bedrooms.

2b. Affordable Housing Unit – a rental unit in an affordable housing building that rents for an amount that is affordable to households at or below 80% of area median income, as median income is most recently determined by the United States Department of Housing and Urban Development for the Minneapolis-St. Paul-Bloomington, Minnesota-Wisconsin Metropolitan Statistical Area, as adjusted for household size and number of bedrooms.

3c. Cause – the tenant or a member of the tenant's household violates a provision of the City's rental housing provisions including, but not limited to, Section 12-915 Crime Free/Drug Free Housing Lease Addendum, or materially violates a term of the lease related to one or more of the following:

a. Nonpayment of rent;

b. Malicious destruction of the affordable housing unit or the affordable housing building;

c. Disturbance of the peace verified by the police department; or

d. A violation of any of the covenants in Minnesota Statutes, section 504B.171.

13a. Lease – an oral or written agreement creating a tenancy in real property.

13b. Material Change – a change in the terms of a lease, either through an amendment of an existing lease or the adoption of a new lease, that significantly limits or restricts the tenants use and enjoyment of an affordable housing unit or the affordable housing building.

25a. Relocation Assistance – a payment to the tenant of an affordable housing unit in the amount equal to three months of the current monthly lease rent.

36a. Tenant Protection Period – the period that commences on the date when a written notice of the transfer of ownership is sent to each affordable housing unit tenant pursuant to Section 12-912D(2) and ends on the last day of the third full calendar month following the date on which the notice was sent. In no case shall the tenant protection period be less than 90 days.

36b. Transfer of Ownership – any transfer of ownership of an affordable housing building by an owner to another person, agent, firm, or corporation that becomes the new owner.

Article II. Brooklyn Center City Code is amended by adding a new Section 12-912D regarding transfer of ownership of an affordable housing building as follows:

Section 12-912D. TENANT PROTECTIONS.

1. Purpose. It is the purpose of this Section to provide housing stability and protection to tenants in affordable rental housing units who are facing displacement when there is a transfer of ownership of an affordable housing building. This Section requires, upon such a transfer, notice to the tenants and the City and the payment of tenant relocation assistance when affordable housing is converted and tenants are required, through direct or indirect means, to move without adequate time to find new housing. This Section is to be interpreted broadly to ensure the tenants of affordable housing units are afforded the protections intended by this Section.

2. Transfer of Ownership.

    a. Notice. Within 30 days after the transfer of ownership of an affordable housing building, the new owner shall give written notice to each affordable housing unit tenant of the building that the property is under new ownership. The notice must, at a minimum, include the following information:

        (1) The name, mailing address, and telephone number of the new owner;

        (2) The following statement: Brooklyn Center City Code, Section 12-912D provides for a three-month tenant protection period for affordable housing unit tenants after an affordable housing building is transferred to a new owner. Under Section 12-912D, affordable housing unit tenants are entitled to relocation assistance from the new owner if, during the tenant protection period, the new owner:

            (i) Without cause, terminates or does not renew the tenant's lease;

            (ii) Raises the rent and the tenant submits a written notice of termination of their lease;

            (iii) Requires existing affordable housing unit tenants to comply with new residency screening criteria and the owner or tenant terminates or does not renew the tenant's lease; or

(iv) Imposes, without the tenant's consent, a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.

(3) Whether there will be any rent increase during the tenant protection period, the amount of the rent increase, and the date the rent increase will take effect;

(4) Whether the new owner will require existing affordable housing unit tenants to comply with new residency screening criteria during the tenant protection period and, if so, a copy of the new screening criteria;

(5) Whether the new owner will, without the tenant's consent, impose a material change in the terms of the lease during the tenant protection period and, if so, the language of the material change and an explanation of its effect;

(6) Whether the new owner will, without cause, terminate or not renew the tenant's lease during the tenant protection period, and if so, the date the lease will terminate and the amount of relocation assistance that will be provided;

(7) The date the tenant protection period will expire; and

(8) Whether the new owner, within 30 days following the tenant protection period, intends to: increase rent; require existing affordable housing unit tenants to comply with new residency screening criteria; impose a material change in the terms of the lease; or, without cause, terminate or not renew affordable housing unit leases.

b. Language Requirement. Each notice required by this Section shall contain an advisory that reads as follows: "This is important information about your housing. If you do not understand it, have someone translate it for you now, or request a translation from your landlord." This advisory must be stated in the notice in the following languages: English, Spanish, Somali, and Hmong. Upon written request by a tenant that identifies the tenant's native language, the owner must provide a written translation of the notice in that language.

c. Affidavit. The new owner shall prepare and execute an affidavit of having provided the notice required by this Section that, at a minimum, identifies each tenant to which the notice was provided, the date on which it was provided, and the method of delivery. A copy of the notice provided shall be attached to the affidavit.

d. Copy of Notices to City. The new owner shall provide a copy of the notices and of the affidavit required by this Section to the City within three days of having provided the notice to the tenants.

e. Copy of Rent Roll to City. If the new owner claims the building or the unit does not meet the definition of an affordable housing building or an affordable housing unit, the

owner shall, upon request, provide the City a copy of the rent roll, including the amount of lease rents paid by tenants.

3. Relocation Assistance.

   a. When Required. A new owner of an affordable housing building must pay relocation assistance to affordable housing unit tenants if any of the following occur during the tenant protection period:

      (1) The new owner, without cause, terminates or does not renew the tenant's lease;

      (2) The new owner raises the rent and the tenant submits a written notice of termination of their lease;

      (3) The new owner requires existing tenants to comply with new residency screening criteria and the owner or tenant terminates or does not renew the tenant's lease; or

      (4) The new owner imposes, without the tenant's consent, a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.

   b. When Paid. The new owner shall, when required, pay relocation assistance to the tenant of an affordable housing unit within 30 days after receiving tenant's written notice of termination of the lease or within 30 days after the owner notifies the tenant that the lease will be terminated or not renewed.

   c. Affidavit. The new owner shall prepare and execute an affidavit that, at a minimum, indicates the date of the notice of termination, identifies each tenant to which relocation assistance was paid, the amount paid, the check number for each payment, the payment date, and the address used to mail the payment.

4. Notice of Violation. A tenant of an affordable housing unit who believes the new owner of the affordable housing building has not provided the tenant the protections required under this Section 12-912D may submit a notice of violation to the City. The purpose of the notice is to inform the City of an alleged violation of this Section to assist the City in determining whether to impose an administrative penalty provided for in this Section, not issue a rental license to the new owner as provided in Section 12-901(8), or to take action on the rental license as provided in Section 12-910. The City is not required to take any particular action in response to a notice of violation and any enforcement action it does take shall be on behalf of the City, not the tenant. Filing a notice of violation does not prohibit the tenant from pursuing any remedy available to the tenant under law.

5. Penalties.

   a. Administrative Penalty. Failure to provide the notice of transfer or to pay relocation assistance when required under this Section is an administrative offense for which a

citation may be issued and a civil penalty imposed as provided in Chapter 18 of this Code.

b. Separate Offenses. A violation of this Section as to each dwelling unit shall constitute a separate offense.

Article III. Brooklyn Center City Code, Section 12-901(8) regarding rental licensing requirements is hereby amended as follows:

8. License Process and Renewal.

a. Renewals. License renewals shall be filed at least 90 days prior to the license expiration date. Within two weeks of receipt of a complete application and of the license fee required by Section 12-902, the Compliance Official shall schedule an inspection.

b. Inspection. No application for an initial license shall be submitted to the City Council until the Compliance Official has determined that all life, health safety violations, or discrepancies have been corrected. In cases where a weather deferral for repairs has been granted by the Compliance Official, the license may be brought forward for consideration of granting a license conditioned on completing repairs.

c. Transfer of Ownership. The new owner of a rental dwelling is required to obtain a rental permit from the City in order to continue renting the rental dwelling. When ownership of an affordable housing building is transferred, the new owner is required to obtain a new rental license for the property under this Section. The new owner shall include in its application for a new license the affidavit of having provided notice to the tenants and, if required, having paid relocation assistance in accordance with Section 12-912D. The new owner shall not be eligible for a new rental license if it failed to provide the notice or failed to pay, if required, relocation benefits in accordance with Section 12-912D.

d. Incomplete Applications or Process. If the license application is incomplete, or the applicant does not meet the requirements of the licensing process within 120 days of the submittal date, the application will be canceled.

Article IV. Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ___ day of _____, 2019.

_____
Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2019-_____

RESOLUTION ADOPTING A REVISED FEE SCHEDULE FOR THE ADMINISTRATIVE PENALTY SYSTEM

WHEREAS, Chapter 18 of the Brooklyn Center City Code ("Code") provides for the imposition of administrative penalties and the City Council adopted Resolution No. 2010-79 to establish a fee schedule for the administrative penalty system that went into effect on April 26. 2010; and

WHEREAS, the City Council is in the process of adopting Ordinance No. 2019-__, which enacts as part of Chapter 12 of the Code certain tenant protections and provides for the imposition of administrative penalties for violating those requirements; and

WHEREAS, the fee schedule for the administrative penalties system needs to be updated to incorporate the administrative penalties associated with violating the tenant protection requirements.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brooklyn Center, Minnesota, that the fee schedule for the administrative penalty system enacted by Resolution No. 2010-79 is hereby updated and replaced with the following:

1. All violations of the Code that are punishable as a misdemeanor or petty misdemeanor are subject to administrative penalties.

2. The administrative penalty fees are as follows:

   Administrative Penalty Fee Schedule

Level 1	$60
Level 2	$125
Level 3	$300
Level 4	$500

3. The administrative penalty fee amounts are assigned as follows:

Violation Type	**Level**
Waste container setback violation (Ch 7-102)	1
Watering restriction violation (Ch 4-202)	1
Local Traffic and Parking (Ch 27)	1
Parking surface violation (Ch 12-316)	2
All others city code violations, designated as a misdemeanor or petty misdemeanor	2

Animal (Ch 01)	2
Failure to register a vacant property (Ch 12-1500)	2
Failure to obtain a permit or license	3
Tenant protection violation (Ch 12-912D)	4

4. When a person has had previous citation(s) for the same violation within 24 months, the scheduled fine amount shall be doubled for each occurrence.

5. In cases involving continuing violations, the hearing officer may adjust and impose a fee for each day the violation continues, not to exceed $2,000 per violation per day.

6. The maximum fine amount per violation per day may not exceed $2,000.

7. A late payment charge of 10% of the fine amount, with a minimum of $15, is required if not paid within 10 days from the date of the citation.

8. Fees to be paid to a hearing officer: The fee will be $150 as a maximum charge for up to two consecutive hearings. Any additional consecutive hearings would be $75 each.

9. Hearing Request Deposit fee: $20.

10. A special assessment charge of $30 will be added for unpaid fine amounts that are specially assessed.

BE IT FURTHER RESOLVED, the City Clerk is hereby authorized and directed to update the City of Brooklyn Center Fee Schedule to incorporate the administrative penalty system fees as adopted herein.

BE IT FINALLY RESOLVED, that administrative penalty system fees adopted herein shall be effective on February 1, 2019.

_____, 2019 _____
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.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION APPROVING SUMMARY PUBLICATION FOR ORDINANCE 2018-18

WHEREAS, the City Council of the City of Brooklyn Center has adopted the above referenced ordinance concerning Tenant Protection; and

WHEREAS, Minnesota Statutes, section 412.191, subdivision 4 allows publication by title and summary in the case of lengthy ordinances or those containing maps or charts; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent of Ordinance 2018-18.

NOW, THEREFORE, BE IT RESOLVED that: the following summary of Ordinance 2018-18 shall be published in the official newspaper in lieu of the entire ordinance.

SUMMARY PUBLICATION
Ordinance 2018-18

An Ordinance Amending Chapter 12, Sections 12-201, 12-901(8), and 12-912D on January 14, 2019.

The amended ordinance elements include:

- Tenant protection for affordable rental housing
- Relocation assistance for tenants

January 14, 2019 _____
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.

CITY COUNCIL

ORDINANCE CHANGE:
SECONDING READING/PUBLIC HEARING
HOSPITALITY ACCOMMODATIONS

JANUARY 14,2019

REQUESTED CHANGES TO EXISTING ORDINANCE

- Ordinance name change to read Hospitality versus Transient.
- Implement basic best practices for all lodging hospitality businesses.
- Broaden the definition of a "call for service."
- Correct the wording within "annual calls for service".
- Include an enhanced point system based on the severity of the call.
- Add a Safety Inspection for Level 2 and 3 license types.

IMPLEMENTED CHANGES BEST PRACTICES

- All references to Transient have been removed.
- Best practices include:
  - Have clear check-in policies that, at a minimum, require all guests reserving or renting a room to use a credit /debit card to guarantee the reservation or rental.
  - Provide and keep a register for the registration of all guests, and every guest must be registered. If guest is traveling by motor vehicle, the make of the vehicle and license plate number needs to be included in the registration.

IMPLEMENTED CHANGES BEST PRACTICES

- Work cooperatively with the City to provide training no less than annually to all staff members directly involved in registering guests and housekeeping.
- Provide the City the name, address, e-mail address, and telephone numbers of the ownership group representatives for that hospitality accommodation.
- Provide the City the name, e-mail address, and telephone number of all managers and other responsible employees.
- Require a manager or responsible employee to be on the premise at all times.

CALL FOR SERVICE

A call for service is defined as:

1. Any report made to the police department of criminal activity, violation of the city code requiring a police response from or concerning a hospitality accommodation in connection with an incident occurring at that hospitality accommodation property, except calls for a medical emergency or domestic assault; or
2. Any incident observed by police concerning a hospitality accommodation property and is responded to by a police officer.

ANNUAL CALL FOR SERVICE

An annual call for service is defined as:

The aggregate total of all the points, specified in Section 23-2404(E), assigned to the calls for service to a hospitality accommodation property in a calendar year divided by the total number of lodging units in the hospitality accommodation as determined by the City.

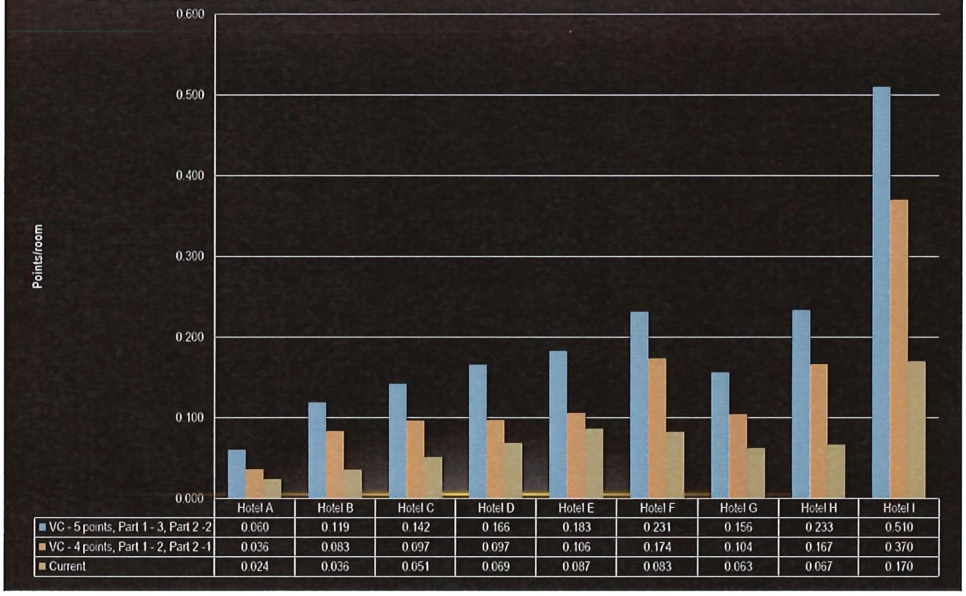
ENHANCED POINT SYSTEM

- The new system bases the point total assigned to each police call on the severity of the service call.
- The following scale shall be used to calculate the number of points assigned to a hospitality accommodation for the calls of service to determine the level of license the hospitality accommodation is required to obtain.

Type of Call for Service	Points
Violent Crime	5 Points
Part 1 Crime	3 Points
Any other crime or call for service	2 Points

- If an employee of the hospitality accommodation originated the call for service, the number of points assigned to the particular call for service shall be reduced by one point.

2017 POINT TOTAL – PROPOSED CHANGES AND CURRENT SYSTEM



	Hotel A	Hotel B	Hotel C	Hotel D	Hotel E	Hotel F	Hotel G	Hotel H	Hotel I
VC - 5 points, Part 1 - 3, Part 2 -2	0.060	0.119	0.142	0.166	0.183	0.231	0.156	0.233	0.510
VC - 4 points, Part 1 - 2, Part 2 -1	0.036	0.083	0.097	0.097	0.106	0.174	0.104	0.167	0.370
Current	0.024	0.036	0.051	0.069	0.087	0.083	0.063	0.067	0.170

2018 HOTEL ANALYSIS

- In 2018, we had 9 licensed hotels; 8 of them were open for the entire year.
- One hotel accounted for half of all violent crimes committed on licensed properties (5 out of 10 total incidents).
- Two hotels accounted for 65% of all Part 1 crimes (28 out of 43 total).
- Two hotels accounted for 49% of all Part 2 crimes (19 out of 39 total).
  - A vast majority of our hotels are safe, well maintained and managed businesses.

SAFETY INSPECTION

- Required for those license types that are deemed Level 2 or greater.
- Inspections will be conducted by City building inspectors.
- Compliance orders will be given for deficiencies with an extended timeline for re-inspection and compliance.
- Specific recommendations for security and safety of Level 2 and 3 licensed properties still exist as they did with the previous version of the ordinance.

QUESTIONS?

CONTENT COMPARISON

CURRENT CONTENT

Annual calls for service- The aggregate total of all calls for service to a transient accommodation property in a calendar year *multiplied* by the total number of lodging units in the transient accommodation as determined by the City.

PROPOSED CHANGES

Annual calls for service- The aggregate total of all **the points, as specified in Section 23-2404, assigned to the** calls for service to a transient accommodation property in a calendar year ~~***multiplied***~~ ***divided*** by the total number of lodging units in the transient accommodation as determined by the City.

DEFINITION COMPARISON

CURRENT DEFINITION

Call for service- Any report of criminal activity made to the police department from or concerning a transient accommodation in connection with an incident occurring at that transient accommodation property, except calls originating from the owner, manager or other agent of the owner of the transient accommodation property;

UPDATED DEFINITION

Call for service – Any report **made to the police department** of criminal activity, **violation of the city code, or general call for service requiring a police response** from or concerning a transient accommodation in connection with an incident occurring at that transient accommodation property, except calls ~~originating from the owner, manager or other agent of the owner of the transient accommodation property;~~ **for a medical emergency or domestic assault**;

INCLUDE MORE DEFINITIONS

Include within the ordinance the following Uniform Crime Reporting (UCR) definitions of Violent Crime and Part 1 crime:

- Violent Crime- Any homicide (any degree), Robbery , Criminal Sexual Conduct (first, second, or third degree), or assault (first, second, or third degree).
- Part 1 Crime- Any crime identified in the Uniform Crime Reporting Program as a Part 1 crime, but which does not constitute a "violent crime" as defined in this Section. Part 1 crimes include, but are not necessarily limited to, theft, manslaughter, burglary or arson (first, second, or third degree).

ADD ADDITIONAL VERBIAGE

If a hotel is deemed to be a Level II or Level III Transient Accommodation it will be required to submit to and pass a Safety Inspection conducted by City Code Enforcement.

Clarify and increase the formula used to calculate the number of points accessed to a transient accommodation to determine the level of their licensing.

ADD ADDITIONAL VERBIAGE

If an employee of the transient accommodation originated the call for service, the number of points assigned to the particular call for service shall be reduced by one point.

TYPE OF CALL FOR SERVICE	POINTS
Violent Crime	5 Points
Part 1 Crime	3 Points
Other Crimes or Calls for Service	2 Points

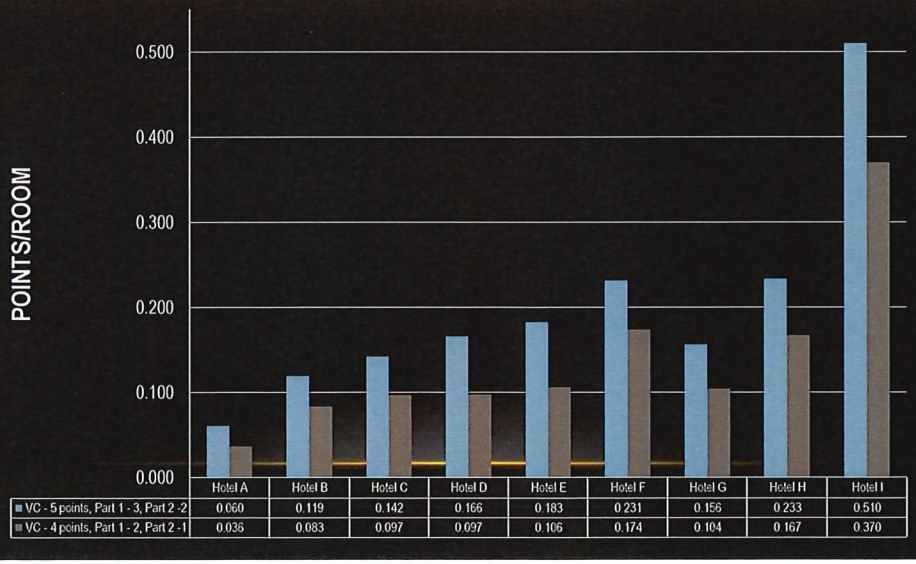
To determine the type of transient accommodation license required, the City shall divide the annual calls for service at a transient accommodation, calculated using the point system set out in the above table, by the total number of lodging units in the transient accommodation.

HEALTH AND SAFETY INSPECTION

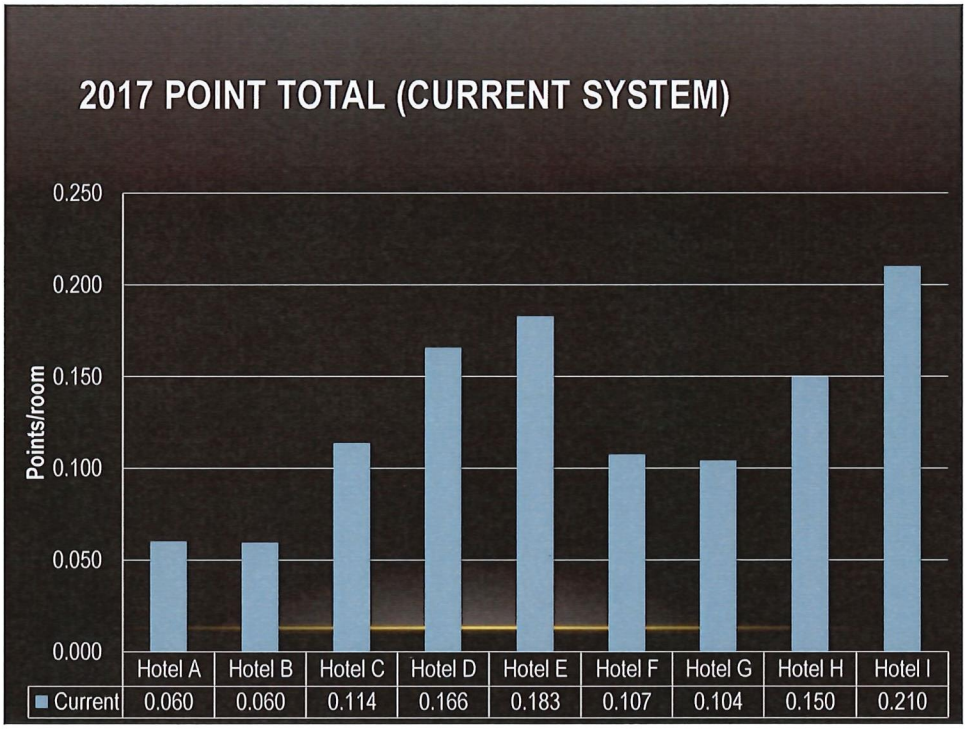
- Inspections will be required for level 2 and 3 hotels based on their license classifications.
- Building and Community Standards will be responsible for conducting the inspection and then insuring compliance with any required corrections.
- Modeling the inspection form based on the City of Plymouth's example.

AFFECT OF PROPOSED CHANGES

2017 Calls for service converted to the proposed formula.



	Hotel A	Hotel B	Hotel C	Hotel D	Hotel E	Hotel F	Hotel G	Hotel H	Hotel I
VC - 5 points, Part 1 - 3, Part 2 -2	0.060	0.119	0.142	0.166	0.183	0.231	0.156	0.233	0.510
VC - 4 points, Part 1 - 2, Part 2 -1	0.036	0.083	0.097	0.097	0.106	0.174	0.104	0.167	0.370


2017 POINT TOTAL (CURRENT SYSTEM)
Points/room
0.250
0.200
0.150
0.100
0.050
0.000
Hotel A
Hotel B
Hotel C
Hotel D
Hotel E
Hotel F
Hotel G
Hotel H
Hotel I
Current
0.060
0.060
0.114
0.166
0.183
0.107
0.104
0.150
0.210

COUNCIL ITEM MEMORANDUM

DATE: 12/10/2018

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: An Ordinance Amending Chapter 12 of the City Code of Ordinances Regarding Tenant Protections

Requested Council Action:

- Motion to approve the first reading of an Ordinance Amending Chapter 12 and second reading as well as call for a public hearing and which will be held on January 14, 2019

Background:

At a work session on April 9, 2018, the City Council reviewed numerous policies relating to affordable housing. The policies were presented to the Council and staff at an earlier Council meeting by affordable housing advocates who have been working with multiple cities around the region on similar efforts. These policies have been designed to address specific problems related to the creation of new affordable units, the preservation of existing affordable housing, and the protection of tenant's rights.

Based on that discussion, Council directed staff to monitor the landlord lawsuit against the City of Minneapolis related to the acceptance of Section 8 Vouchers. Since that meeting, the courts have struck down the ordinance which would have banned landlords from discriminating based on whether a tenant had vouchers or not. Minneapolis is appealing the decision. Staff will continue to monitor the process and will bring the item back to Council should a higher court make a different determination.

At the work session, Staff was also directed to bring back the Tenant Protection Ordinance for further consideration by Council.

At the November 13, 2018, City Council Work session staff presented additional information about a Tenant Protection Ordinance, including a draft of an ordinance which was modeled after similar ordinances adopted by St. Louis Park, Richfield, and Bloomington. At that meeting staff were directed to bring the Tenant Protection Ordinance to the Housing Commission for review and recommendation.

The Housing Commission reviewed the ordinance at their November 20, 2018, Housing Commission Meeting. The Housing Commission unanimously passed a motion to recommend approval of the Tenant Protection Ordinance. The Housing Commission did make the following recommended changes which have been reflected in the updated ordinance.

1. Increase the income requirement to 80% and remove the minimum 20% of units requirement. Therefore, requiring protection for any unit that qualifies based on income.
2. Section 12-912D.2.a.8. Change language to require notice to tenant if modifications to lease will be made within 30 days after the 90-day tenant protection period ends. The previous language required notification only if the landlord intended to make modifications to the lease the day following the end of the

90-day tenant protection period.

3. Section 36a. Clarification on how many months the tenant protection period would be when 3 months totals 89 days.
4. 12-912D.2.D. Adjust wording for delivering the notice to the City to allow additional time. For example, if the landlord hand delivers the notice to tenants, they can still provide the notice to the City by mail.

Tenant Protection Ordinance Overview

As the value of rental property has increased, so has investment interest. As properties change hands it is common for new owners to make capital improvements and increase rents, change screening criteria, or alter other aspects of the lease agreement that force existing tenants out of the building. The purpose of the Tenant Protection ordinance is to freeze the terms of the existing lease for a 90 day period of time, allowing tenants time to relocate should they need to.

The ordinance requires a new owner of a naturally occurring affordable housing property to pay relocation benefits to tenants if the new owner increases rent, rescreens existing residents resulting in tenants relocating from the property, implements non-renewals without cause within 3 months after the purchase, or materially changes the terms of the lease resulting in the tenant relocating form the property. The ordinance has the effect of freezing lease terms for 90 days after the sale of a property. The purpose is to allow tenants three (3) months to relocate if necessary.

This ordinance wouldn't interfere with the sale of naturally occurring affordable housing, however; it would provide relocation assistance to the tenants if necessary. The ordinance would require new buyers to notify tenants within 30 days if substantive changes to the lease are forthcoming, giving tenants time to relocate if necessary.

The ordinance defines "Cause" as the renter violating a provision of the City's rental housing provisions, nonpayment of rent, malicious destruction of property, or disturbing the peace. This means that a new landlord would not be able to non-renew a lease except for these reasons during the tenant protection period. A landlord would still be able to evict a tenant through the typical legal process.

The ordinance lays out a specific notification process that includes both notification of the tenants and the City when new ownership of the property occurs.

Enforcement

One aspect of the ordinance that staff continues to have concerns about relates to the enforcement of it in situations where a tenant feels they are owed relocation benefits, but the landlord feels they do not. None of the other cities that have adopted similar ordinances have dealt with this issue directly within the ordinance. While the City can require documentation from the landlord that they have met the notification requirements to the tenants, if a dispute arises, the City is not in a position to mediate that dispute. In that situation the remedy for a tenant who feels that the ordinance has been violated would be through the courts. Taking a landlord to court can be a costly and onerous process that tenants may not choose to pursue.

The City Attorney's office has provided information relating to what actions a tenant may take in this situation and the response was that there is not a clear path the tenant would have to bring a suit against their landlords based on the alleged ordinance violations. There may be opportunity for a lawsuit to by filed. However, there is no clear legal path on this type of tenant action because it would be new to the court system.

The purpose of the ordinance is to hold a lease arrangement for 90 days upon sale of a property to a new owner, allowing tenants time to find new housing should they need to. New owners in all likelihood will simply wait the 90 days to make the alterations to any lease terms that they intend to make and relocation benefits will never need to be paid, so the issue of enforcement will likely rarely come up. However, the City would not be in a good position to address issues in the event of a dispute between the landlord and tenant regarding the ordinance if they were to

come up.

Stakeholder Review and Input
Staff have provided the draft ordinance to Homeline for review. They appreciate that Brooklyn Center has implemented the changes Homeline recommended. However, they suggested that the City also consider adding a 60-day advance notice of proposed sale. Homeline suggests *"that provision is very important because it actually gives tenants very critical information about the stability of their housing. While it could end up being difficult to enforce, more broadly we believe it is a clear demonstration of the interest the city has in supporting a significant portion of the population."*

Staff reviewed the advance notice of sale policy with the Council at the April work session and expressed concerns for the policy at that time. Staff's primary concern is the management of the information related to the notice of sale, how it is maintained, who it is distributed to, and the City's liability to do so. In addition, the advanced notice of sale policy runs the risk of interfering with the sale of property, and landlords have expressed strong concern over its unintended consequences of deterring sales and unduly increasing the cost of acquisitions.

In response to the Tenant Protection Ordinance, staff reached out to several landlords in the community to ask them to provide input on the proposed ordinance. Generally, those talked to expressed an overall concern about the ordinance and its possible unintended consequences, but acknowledged that it was likely manageable. Concerns raised included:

- Landlords who can will increase rents to push their properties outside the purview of the ordinance.
- The ordinance will increase acquisition costs by adding additional carrying costs on the first 90 days which may dissuade buyers.
- The ordinance adds costs for buyers to complete their due diligence on a property and, because the ordinance is new, adds uncertainty with the compliance procedures.
- Landlords noted that the housing market is cyclical and, though there is an affordable housing issue right now, that the vacancy rate would eventually stabilize back up so that displacement and affordability would not always be such a large concern.
- Landlords commented that Brooklyn Center's housing market was unique in that, while this ordinance would affect most rental properties because of the large amount of affordable rental units in the City, displacement was not as large of an issue here as it is in communities where there are very few affordable rental units, and so the ordinance may not be as necessary.

Next Steps
If the Council approves the first reading of the ordinance it will go to the City Council for a second reading and public hearing on January 14th, 2019.

Budget Issues:

There will be staff time relating to the enforcement of the ordinance. However, it is not currently anticipated that the additional workload will result in additional staff.

Further, a resolution will be brought forward at the time of the public hearing relating to the relocation costs associated with this ordinance.

Strategic Priorities and Values:

Resident Economic Stability

MEMORANDUM - COUNCIL WORK SESSION

DATE: 11/13/2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Community Development Director

SUBJECT: Tenant Protection Ordinance

Recommendation:

- *Consider providing direction to staff regarding the draft tenant protection ordinance*

Background:

At a worksession on April 9, 2018, the City Council Reviewed numerous policies relating to affordable housing. The policies were presented to the Council and staff at an earlier Council meeting by affordable housing advocates who have been working with multiple cities around the region on similar efforts. These policies have been designed to address specific problems related to the creation of new affordable units, the preservation of existing affordable housing, and the protection of tenant's rights.

Based on that discussion, Council directed staff to monitor the landlord lawsuit against the City of Minneapolis related to the acceptance of Section 8 Vouchers. Since that meeting, the courts have struck down the ordinance which would have banned landlords from discriminating based on whether a tenant had vouchers or not. Minneapolis is appealing the decision. Staff will continue to monitor the process and will bring the item back to Council should a higher court make a different determination.

At the work session, Staff was also directed to bring back the Tenant Protection Ordinance for further consideration by Council. The purpose of this discussion is to update Council on the research that has been done on this topic since then, and to seek direction from Council on how to proceed.

Tenant Transition/Protection Ordinance (Tenant Protection) – This would require a new owner of a naturally occurring affordable housing property to pay relocation benefits to tenants if the new owner increases rent, rescreens existing residents or implements non-renewals without cause within 3 months after the purchase. The ordinance has the effect of freezing lease terms for 90 days after the sale of a property. The purpose is to allow tenants three (3) months to relocate if necessary.

- This ordinance wouldn't interfere with the sale of naturally occurring affordable housing, however; it would provide assistance to the tenants if necessary.
- The ordinance would require new buyers to notify tenants within 30 days if substantive changes to the lease are forthcoming, giving tenants time to relocate if necessary.
- The policy could dissuade potential apartment buyers from buying in Brooklyn Center, who may opt to purchase a property in a city without this policy.
- This ordinance would not have affected the situation that occurred at the Earle Brown Terrace Assisted Living facility as this property was vacated prior to the sale of the property.
- St. Louis Park, Bloomington, Richfield, and Golden Valley have adopted similar ordinances.
- Minneapolis is in the process of approving a similar ordinance.
- Bloomington is considering amendments to their tenant protection ordinance related to enforcement.
- Of the cities who have adopted this ordinance non have had to take enforcement action against a

landlord for violating this ordinance.

A draft ordinance, prepared by the City Attorney is attached for review and consideration. St. Louis Park originally drafted the ordinance in partnership with several of their landlords as well as affordable housing advocates. It was broadly supported. The draft is similar to that of St. Louis Park's and Richfield's with some modifications.

- The tenant protection requirements would be integrated into the rental licensing application process and documentation would need to be provided in order for a property to receive their new license.
- Restricts the type of non-renewals that can occur during the tenant protection period.
- Restricts material changes to the terms of the lease to prevent the landlord from creating a hardship on the tenant during the protection period.

The ordinance would potentially add cost to an investor/buyer intending to purchase an apartment building in the City. Depending on the intentions of the new buyer a three month hold on changes to lease agreements could affect their offer to purchase. Existing landlords in St. Louis Park indicated that this was not of great concern, as long as the new buyer was well aware of the requirements, they would be able to build it into their proforma.

One aspect of the ordinance that staff continues to have concerns about relates to the enforcement of it in situations where a tenant feels they are owed relocation benefits, but the landlord feels they do not. None of the other cities that have adopted similar ordinances have dealt with this issue directly within the ordinance. While the City can require documentation from the landlord that they have met the notification requirements to the tenants, if a dispute arises, the City is not in a position to mediate that dispute. In that situation the remedy for a tenant who feels that the ordinance has been violated would be through the courts. Taking a landlord to court can be a costly and onerous process that tenants are not likely to pursue.

The purpose of the ordinance is to essentially hold a lease arrangement for 90 days upon sale of a property to a new owner, allowing tenants time to find new housing should they need to. New owners in all likelihood will simply wait the 90 days to make the alterations to any lease terms that they intend to make and relocation benefits will never need to be paid, so the issue of enforcement will likely rarely come up. However, the City would not be in a good position to address issues in the event of a dispute between the landlord and tenant regarding the ordinance if they were to come up.

Policy Issues:

- Does the Council require additional information regarding tenant protection before concluding if further policy actions are necessary?

- Are there recommended changes to the draft ordinance that should be considered?
    - The current draft ordinance would apply to multifamily properties with at least 20% of their units affordable at 60% of the area median income (AMI). Homeline recommended the City consider amending the draft ordinance so that it would apply to multi-family properties with at least one unit affordable to households making 80% AMI.

- Would the City Council want the Housing Commission to review the ordinance and make a recommendation before the Council takes any action?

Strategic Priorities and Values:

Resident Economic Stability

MEMORANDUM – COUNCIL WORK SESSION

DATE: April 9, 2018

TO: Curt Boganey, City Manager

FROM: Jesse Anderson, Deputy Director of Community Development

THROUGH: Meg Beekman, Community Development Director

SUBJECT: Affordable Housing Policy

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding potential affordable housing policies for the City.

Background:

In May of 2017, the City Council received copies of emails forwarded by Councilmember Butler from African Career and Education Resource Inc. (ACER) requesting an opportunity to come before the City Council to discuss concerns about the need for affordable housing in Brooklyn Center. In addition Mayor Willson was in contact with a representative of Community Action Partnership of Hennepin County (CAPHC) regarding the same topic.

On July 10, 2017, by consensus the City Council directed staff to invite representatives from ACER and CAPHC to a future work session to present information and have a dialogue on the issue of affordable housing.

On August 14, 2017, the City Council received a presentation from ACER and CAPHC regarding the topic of affordable housing. At the presentation ACER and CAPHC advocated that the City consider adopting policies that would address the region's need for affordable housing, protect tenants, and help preserve naturally occurring affordable housing. The Council directed staff to bring the subject back to a future work session for discussion.

Regional Housing Trends:

The Twin Cities Metropolitan Area is currently experience record low vacancy rates. According to Marquette Advisors' midyear report in August 2017, the average vacancy rate across the Twin Cities metro was 2.4 percent. Experts agree that a balanced rental market will typically see an average vacancy rate of around 5 percent.

The impact of low vacancy rates over time has increased rents, a growing interest from outside investors, and landlords in a position to be choosier about who they rent to. This has borne out throughout the Twin Cities Metropolitan Area as rents have gone up throughout the region. The average rent at the end of July 2017 had increased 3.1-pecent year over year. In addition, the Metropolitan Council is seeing a reduction in the number of landlords accepting Section 8

vouchers. According to the Metropolitan Council, landlords are citing the increased interest for their units from non-voucher holders as the primary reason for the change.

Yet another impact of the increasing value of rental property is the growing number of investors purchasing Class B or Class C rental properties, which are renting for naturally affordable rents, making cosmetic improvements, and increasing rents so that the units are no longer affordable. According to the Minnesota Housing Partnership, the sales of apartment buildings in the metro area jumped 165 percent between 2010 and 2015. Often the change in ownership will also come with a change in policy related to criminal history, acceptance of Section 8 vouchers, or minimum income requirements, resulting in existing tenants being displaced from the property.

The region is also seeing a loss of smaller-sized rental properties (1-4-units). This is due, in part to single family properties converting back into owner-occupied as the market recovers from the recession, but also a growing number of local investors purchasing smaller properties and flipping them. While some of the proposed policies would impact single family rentals, the primary focus of affordable housing advocates and media attention has been on larger properties (40-units or greater).

Affordable housing advocates have identified potential policies designed to address these issues. The policies fall into one of three categories; 1) preservation policies designed to preserve naturally occurring affordable housing and prevent it from being flipped; 2) tenant protection policies designed to prevent or mitigate displacement; and 3) creation policies designed to create new, legally-binding, affordable housing that will replace the naturally occurring affordable housing that is being lost.

Brooklyn Center's Current Rental Housing:

According to the Metropolitan Council, the following table indicates what is considered affordable rents in the Twin Cities Metropolitan Area:

# of Bedrooms	30% AMI	50% AMI	60% AMI	80% AMI
Efficiency	$474	$791	$949	$1,265
1-Bedroom	$508	$848	$1,017	$1,356
2-Bedroom	$610	$1,017	$1,220	$1,627
3-Bedroom	$705	$1,175	$1,410	$1,880
4-Bedroom	$786	$1,311	$1,573	$2,097

*Rents include tenant-paid utilities

According to the Metropolitan Council, the following table indicates average rents in Brooklyn Center:

# of Bedrooms	Survey	5-Year Avg
Efficiency	$730	$744
1-Bedroom	$869	$801
2-Bedroom	$1,019	$925
3+ Bedroom	$1,281	$1,147

Brooklyn Center currently has 834 rental license holders. 713 of those are for single family homes. 71 of the licenses are for 2-4-unit properties. 24 are for properties with between 5 and 39 units. 27 licenses are for properties with greater than 40 units. There are approximately 4,300 rental units in the City. The average rents in Brooklyn Center are considered affordable for those making around 50 percent of the Area Median Income. Of the 11,608 total housing units (both rental and owner-occupied) in Brooklyn Center, 89.5 percent are naturally occurring affordable housing. There are currently 402 Section 8 voucher holders in the City.

Brooklyn Center currently has five apartment building that are legally-binding affordable housing, Ewing Square Townhomes (23-units), The Crest Apartments (69-units), Unity Place (112-units), Emerson Chalet Apartments (18-units), and The Sanctuary (158-units). Also, Lynwood Apartment (50-units) is currently applying for Certified Low Income Status, which would make it a legally-binding affordable property. This equates to 3.7 percent of the City's housing stock is legally-binding affordable housing.

Anecdotally, a recent phone survey of 34 Brooklyn Center landlords found a current average vacancy rate of 1.3 percent.

Rents in Brooklyn Center are currently very affordable compared to the region. Low rents may be contributing to the low vacancy rates. If the vacancy rates are in fact below 2 percent, and they remain that low over time, it would be reasonable to expect rents to increase. However, given the current low rents, even an increase in rents of 20-30 percent would result in rents still considered affordable for those making 60-80% AMI.

Affordable Policy Options:

Section 8 Ordinance (Tenant Protection) - Prohibiting discrimination against Section 8 voucher holders and other recipients of government programs. The policy would prohibit landlords from denying any tenants' application based on the applicant receiving government assistance.

- Staff surveyed 34 Brooklyn Center apartments and found that 50 percent indicated that they do not accept section 8 vouchers.
- Minneapolis recently adopted this ordinance, which allows applicants who feel they have been discriminated against to seek damages through the city's department of Civil Rights.
- The City of Minneapolis has an active lawsuit filed against them by 55 apartment owners over the legality of this ordinance. The lawsuit argues the mandate conflicts with state law and unfairly forces them to comply with requirements of federal housing voucher programs for low-income residents. It also says the law violates the Minnesota Constitution because it reduces their property values, forces landlords to enter into contracts and represents an unnecessary government intervention in their businesses. Landlords also claim that this could cause landlords to increase rent and/or application criteria as to price out Section 8 vouchers.

➢ Staff feels that if the ordinance is upheld by the courts, it could be a useful tool to ensure residents are not discriminated against based on their source of income; however additional review would be necessary related to the enforcement of the ordinance. Staff

recommends that the City monitor the Minneapolis lawsuit then review pending the outcome.

Notice of Intent to Sell (Preservation) – Rental property owners must give advanced notice prior to the sale of a rental property. This gives a preservation buyer an opportunity to match the purchase price. It would also give service providers additional time to relocate residents who would be displaced as a result of the sale.

- Landlords would be concerned about delaying the closing of a property sale, which could have a negative effect on price. Preservation companies such as Aeon have expressed concerns that this could increase the competition for these properties, and thusly increase sales prices.
- Enforcement would be difficult because the penalty would come after the sale has occurred. If the property has sold, the seller no longer has ties to the property so enforcing a citation could be challenging and may not be a deterrent. In a workgroup in St. Louis Park landlords stated that if there was a $1000.00 citation for selling without notice, they would likely still sell the property and pay the citation.
- It is unclear who the seller would need to notify of their intent to sell and what would be done with that information once it was known. Who would decide what buyers could have access to the information? Who would be responsible for disseminating the information?
- It is possible that this ordinance would dissuade investors, who may opt to purchase property in cities that do not have the additional requirements.
- St. Louis Park is looking at an alternative ordinance related to tenant transition/protection would address the need for additional time to relocate tenants.

➢ Staff recommends that the city consider other options such as the tenant transition ordinance.

Tenant Transition/Protection Ordinance (Tenant Protection) – This would require a new owner of a naturally occurring affordable housing property to pay relocation benefits to tenants if the new owner increases rent, rescreens existing residents or implements non-renewals without cause within 3 months after the purchase. The ordinance has the effect of freezing lease terms for 90 days after the sale of a property. The purpose is to allow tenants three (3) months to relocate if necessary.

- This ordinance wouldn't interfere with the sale of naturally occurring affordable housing, however; it would provide assistance to the tenants if necessary.
- The ordinance would require new buyers to notify tenants within 30 days if substantive changes to the lease are forthcoming, giving tenants time to relocate if necessary.
- St. Louis Park adopted the Tenant Protection Ordinance in March of 2018.
- The policy could dissuade potential apartment buyers from buying in Brooklyn Center, who may opt to purchase a property in a city without this policy.

➢ Staff recommends that the City review this policy further to determine the legality of it, the enforcement mechanism, and what the specific impacts in Brooklyn Center might be.

Just-Cause Eviction (Tenant Protection) – Also known as Just-Cause Non-Renewal, this would require a landlord to provide a reason if they were going to not renew a tenant's lease that was expiring. Currently landlords must provide a just cause for eviction, which a tenant can appeal in court. There is no appeal process available to tenants who lose their housing due to non-renewal of lease.

- Landlords see this as taking away a valuable management tool for dealing with problem tenants and have the unintended consequence of increasing the number of evictions filed and strengthening screening standards.
- When St. Louis Park conducted their meetings with landlords and the Multi-family Housing Association, this ordinance received the strongest opposition.
- The enforcement of this policy would be through the court system and would require a tenant to take legal action against their landlord via a lawsuit.
- Of the 34 landlords surveyed by staff, the majority of evictions or non-renewals are the result of non-payment of rent or criminal activity.
- The intent of this ordinance would be to protect tenants from being non-renewed in the event a new owner wants to empty a building in order to do a substantial renovation with the goal of increasing rents.

➢ Staff recommends that the City consider other options such as the tenant transition ordinance to protect tenants.

Inclusionary Housing Policy (Creation) – These are a collection of policies that could be adopted by the city which would either encourage or require new affordable units to be included as part of new market-rate residential development projects which receive public subsidy or other discretionary City approvals. Frequently it is in the form of a requirement that a percentage of units be affordable in a new residential development in exchange for public subsidy of the project.

- New developments such as the Opportunity Site would be required to include a certain number of affordable units.
- Inclusionary Housing policies ensure that new affordable units are added as market-rate units are built, thus ensuring mixed-income communities.
- Cities such as St. Louis Park and Minneapolis have found that in higher rent developments, a certain percentage of affordable units can be required without increasing the need for additional public subsidy. This is due to the higher than average market rents, which off-set the affordable units. In Brooklyn Center, as is true in communities with lower average rents, it is likely that the cost of the affordable units would require additional public subsidies in order for a project to be financially feasible.

➢ If the Council would like to move forward with this police staff would recommend reviewing the feasibility of future development if an affordable housing policy is adopted.

4D Tax Breaks (Preservation) – Also known as the Low Income Rental Classification Program (LIRC), Minnesota provides a property tax break, currently amounting to 40%, to subsidized rental properties under LIRC, commonly referred to as the 4D program. There is the potential,

however, to extend 4D eligibility to certain currently unsubsidized affordable properties, without changing current law. This is because the LIRC/4D statute defines eligible properties as those which meet two conditions: the owner of the property agrees to rent and income restrictions (serving households at 60% AMI or below) and receives "financial assistance" from federal, state or local government. This presents the possibility of creating a "Local 4D" program in which qualifying properties receive the 4D tax break in return for agreeing to conditions which meet certain local government policy goals.

- A government agency would need to provide a financial contribution to a rental apartment with a low income agreement placed on the property. The property could then be eligible to apply for 4D status. This would allow a landlord to make physical improvements to the property in exchange for affordable rents.
- The reduction in property taxes would not decrease the City's revenue from property taxes, as the funds would be distributed to all other properties; however, it would reduce that property's share of local property taxes.
- The amount of the tax break is a limiting factor as it equates to around $80/unit per year; however, the program may be an incentive for a property owner in a community where the market rents are already considered affordable, since they would not need to depress their rent rates.
- Hennepin County is looking into a rehabilitation program for rental properties which would function similarly to the CDBG housing rehabilitation program, but be County funded.
- The City could also look at funding a program for rental housing rehabilitation.

➢ Staff recommends working with the County to determine the feasibility of a County-led program. The City could also review EDA or TIF 3 Housing funds to determine the availability of funds for a city program that would provide rental housing rehab assistance in exchange for a 5-10 year affordability requirement. This could be set up as a per unit matching forgivable loan.

<u>Other Policies/Programs</u>

- Identify buildings that are at-risk of being flipped. Reach out to owners of at-risk buildings and gauge their short and long-term plans. Help connect them with preservation buyers on a case-by-case basis.
- Comprehensive Plan – the City is in the process of updating its Comprehensive Plan. If the preservation and/or creation of affordable housing are a priority for the City, it should be reflected in the City's Comprehensive Plan.
- Education – Work with the Metropolitan Council to provide education on Section 8 voucher programs to dispel some of the negative perceptions of the program.

Policy Issues:

Does the Council believe that the information presented indicates a need for additional policy actions to address the concerns raised regarding affordable housing and the protection of tenant rights?

MEMORANDUM – COUNCIL WORK SESSION

Does the Council require additional information regarding these issues before concluding if further policy actions are necessary?

Which policies if any would the Council want brought back for further consideration?

Which policy does the council consider a higher priority?

Strategic Priorities:

- Resident Economic Stability

Attachments:
US Census Bureau Data
Metropolitan Council Land use Chart
August 14, 2017 Council Work Session Memo
August 14, 2017 Council Work Session Minutes
Housing Strategies Table Presented at Previous Work-Session
Mixed-Income Housing Policies among Neighboring Cities Table
Phone Survey of Brooklyn Center Apartments
Phone Survey of Brooklyn Center Single Family Property Management Companies:

US Census Bureau Data:

Source: Certificate of Real Estate Value, Minnesota Department of Revenue.
Download chart data

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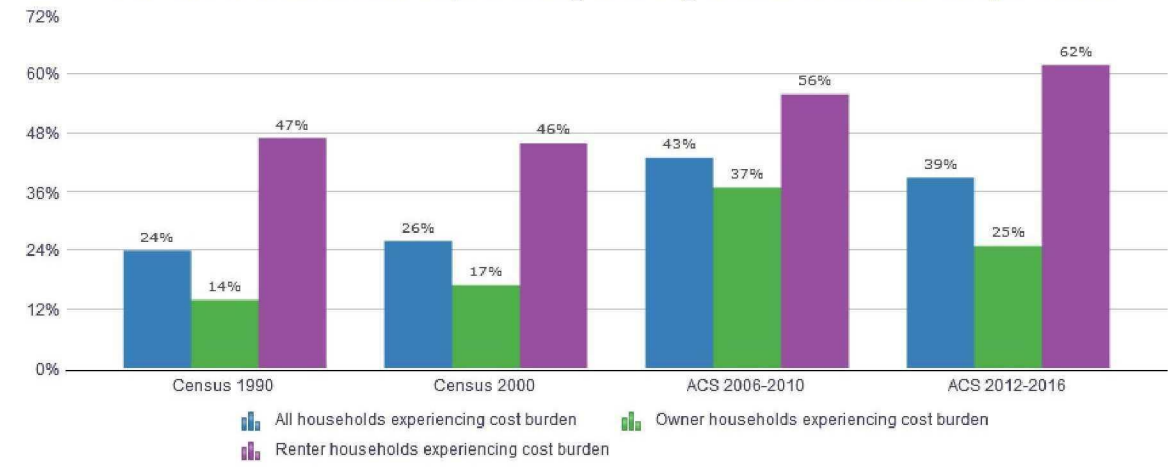
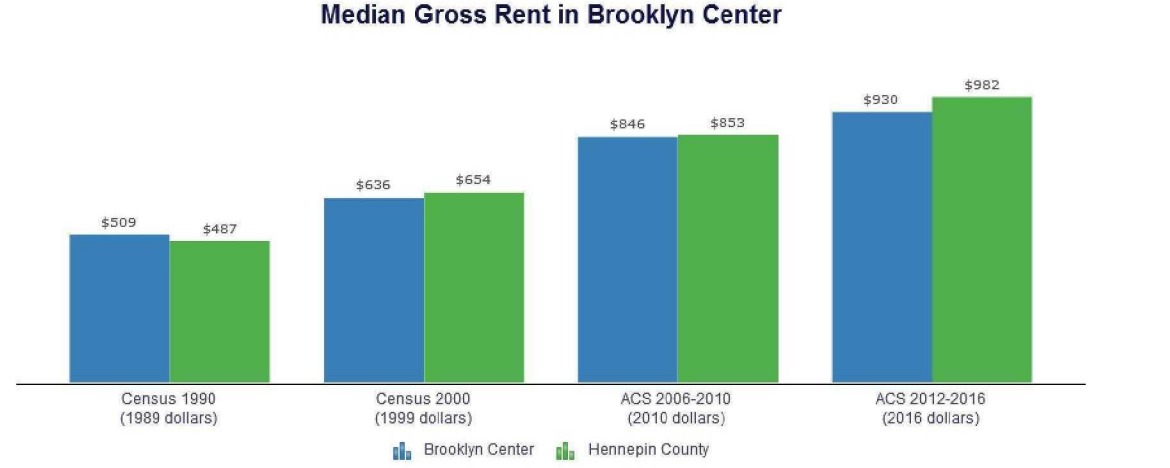
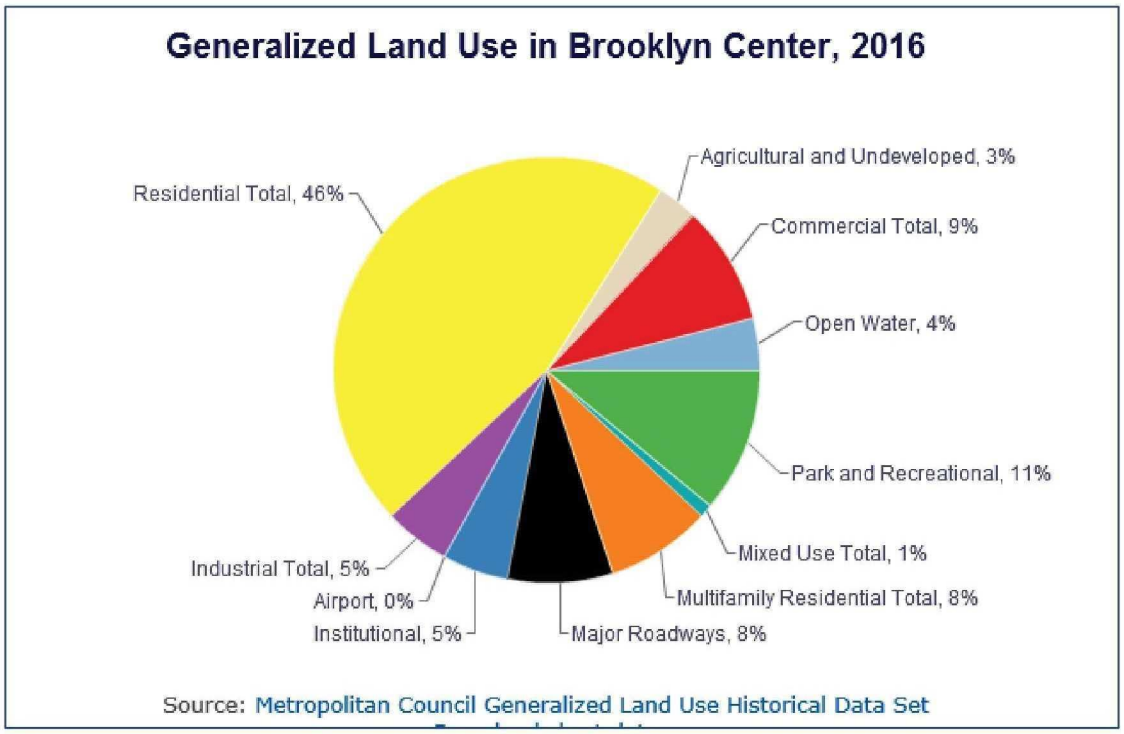


Source: U.S. Census Bureau Decennial Census and American Community Survey.
Households experience housing cost burden when their housing costs are 30% or more of their gross income. For renters, housing costs include rent and utilities; for owners, housing costs include mortgage principal and interest, property taxes, property insurance, utilities, and other fees. Use caution when comparing 1990 and 2000 data (which include only some households) to American Community Survey data (which include all households). See the metadata for more information.



Source: U.S. Census Bureau Decennial Census and American Community Survey.

Metropolitan Council Land Use Chart:



MEMORANDUM – COUNCIL WORK SESSION

DATE: August 10, 2017

TO: City Council

FROM: Curt Boganey, City Manager

SUBJECT: Affordable Housing Presentation

Recommendation:

It is recommended that the City Council receive the presentation/report and consider providing direction to staff.

Background:
In May of 2017 the City Council received copies of emails (attached) forwarded by Councilmember Butler from African Career and Education Resource Inc. (ACER) requesting an opportunity to come before the City Council to discuss concerns about the need for affordable housing in Brooklyn Center. In addition Mayor Wilson was in contact with a representative of Community Action Partnership of Hennepin County (CAPHC) regarding the same topic.

On July 10th 2017 by consensus the City Council directed staff to invite representatives from ACER and CAPHC to a future work session to present information and have a dialogue on the issue of affordable housing.

It is my understanding that these groups have collaborated in the past and will jointly present on the issue of Affordable Housing before the City Council. . As stated in the email from Executive Director, Munene the overall goal of the group is to enact or strengthen current policies that will preserve naturally occurring affordable housing, secure the rights and improve the living conditions of tenants living in affordable rental properties.

Enclosed with this report is a copy of Housing Strategies and Tools for the City Of Brooklyn Center (Exhibit A) provided by ACER and 3 Pillars of Affordable Housing Advocacy (exhibit B) provided by CAPHC. These documents represent some of the issues that will be presented to the City Council

Policy Issues:
Does the Council believe that the information presented indicate a need for additional policy actions to the address the concerns raised regarding affordable housing and the protection of tenant rights?

Does the Council require additional information regarding these issues before concluding if further policy actions are necessary?

How does the Council want staff to proceed regarding the issues raised about affordable housing and tenant rights?

Excerpt- July 10th 2017 City Council Study Session

Councilmember Butler referenced the document from African Career Education & Resource (ACER) and stated this group would like to present findings related to affordable housing and how the City can ensure that housing remains for those who need it. She asked that this topic be scheduled for a future Work Session agenda. Mayor Willson stated this is the second time the City Council has received this information, noting in the second report they correctly updated Brooklyn Park to Brooklyn Center. He stated he is not opposed to scheduling this topic for a future Work Session. Mr. Boganey asked how much time they will require. Councilmember Butler suggested 20 minutes plus time for questions. Mr. Boganey stated he will contact them to arrive at a date within the next 30 days.

The City Council consensus was to direct staff to schedule this topic for a future Work Session.

Tenant Protection Ordinance

City Council Meeting, January 14, 2019
Meg Beekman, Community Development Director

Background

- April 9, 2018 The City Council reviewed numerous policies relating to affordable housing.
  - Staff was directed to bring back the Tenant Protection Ordinance for additional consideration.
- November 12, 2018 City Council reviewed the draft ordinance
- November 18, 2018 the Housing Commission recommended approval with minor revisions.
- December 10, 2018 The City Council approved the 1st reading and called for the public hearing to be held on January 14, 2019.

Tenant Protection Ordinance Overview

- The value of rental property has increased
- With new ownership, changes can occur for tenants
  - Capital improvements
  - Increase rents
  - Screening criteria
- These changes can displace existing tenants
- State Law prohibits cities from enacting rent control

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Tenant Protection Ordinance

- Requires a new owner to pay relocation benefits to tenants, if during the Tenant Protection Period the new owner:
  - Without cause, terminates or does not renew the tenant's lease;
  - Raises the rent and the tenant submits a written notice of termination of their lease;
  - Requires existing tenants to comply with new screening criteria and the owner or tenant terminates or does not renew the tenant's lease; or
  - Imposes, without the tenant's consent, a material change in the terms of the lease and the owner or tenant terminates or does not renew the tenant's lease.
- Allows tenants time to relocate if necessary
- The purpose is to freeze the terms of the existing lease for a minimum of 90 day

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Tenant Protection Ordinance

- This ordinance wouldn't interfere with the sale of naturally occurring affordable housing.
- Requires new buyers to notify tenants within 30 days
- Requires new buyers to notify tenants if changes to the lease will occur within 30 days after the Tenant Protection Period
- The new buyers have the option to pay relocation assistant

Timeline

1. New owner purchases property
2. Within 30 days of purchase, new landlord sends written notice to tenants – Tenant Protection Period begins
3. Tenant Protection Period ends on the last day of the third full calendar month following the day the notice was sent
4. 30 days following Tenant Protection Period, landlord may alter lease and impose screening criteria provided notice was given
5. 31 days following Tenant Protection Period, Ordinance no longer applies

Tenant Protection Ordinance

- St. Louis Park, Bloomington, Richfield, and Golden Valley have adopted similar ordinances
- Minneapolis is in the process of approving a similar ordinance
- Bloomington is considering amendments related to enforcement
- No enforcement actions to date

7

Ordinance Updates

- Integrated into the rental licensing application process
- Restricts the type of non-renewals that can occur
- Restricts material changes to the terms of the lease
- Applies to properties with 3+ units
- Applies to units affordable at 80% AMI or less
- Defines “cause” for permitted non-renewals or evictions
  - Nonpayment of rent
  - Malicious destruction of property
  - Disturbance of the peace verified by the police department
  - A violation of any of the covenants in Minnesota Statutes, section 504B.171.

8

Enforcement

- Some uncertainty with enforcement
- Legal path for tenants is not clear – New Ordinance
- Landlord would be unable to obtain license until relocation benefit is paid or notice given
- Citation amount for violation of the tenant protection ordinance is $500, plus relocation

Stakeholder Review and Input

- Home-line appreciated the recommended updates
  - Recommended considering the notice of sale ordinance as well
- Landlords express concerns regarding unintended consequences
  - Increase rent to exceed income requirement
  - Increase in acquisition cost due to carrying cost
  - Increased cost for due diligence
  - Unique Brooklyn Center Market, most units are affordable unlike other communities
  - May dissuade investors from purchasing buildings

Recommended Action

- Motion to open public hearing, take public comment, and close public hearing
- Motion to approve the second reading and adopt an ordinance amending Chapter 12 of the City Code of Ordinances regarding tenant protections and approve a resolution amending the fee schedule relating to Administrative Penalties
- Motion to approve a resolution approving the Summary Publication of the adopted ordinance

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Liquor License Violation - Jammin Wings

Requested Council Action:

- *Motion to open public hearing*
- *Take public input*
- *Motion to close public hearing*

Background:

This item was carried over from the December 10, 2018 City Council meeting.

On October 9, 2018, the Brooklyn Center Police Department conducted alcohol compliance checks at all on-sale liquor license holders within the City of Brooklyn Center. At Jammin Wings, the bartender served the individual that was under the age of 21 even after looking at their ID.

This was Jammin Wings second liquor violation in 2018. The first violation was operating an Optional 2 am liquor license with an expired license. In the minutes from the January 22, 2018, City Council meeting, the council imposed a $1,300 civil penalty, suspending $1,000, contingent upon no further liquor license violations.

Section 11-125 Revocation and Suspension: The City Council may suspend or revoke any liquor license or permit and may impose a penalty not to exceed $2,000 pursuant to Minnesota Statutes, Section 340A.415, for the violation of any provision or condition of this Chapter or of any State law or rule or federal law regulating the sale of Liquor. The City Council shall revoke a Liquor License for any willful violation that, under the laws of the State, is grounds for mandatory revocation, including the licensee's failure to maintain the insurance required by Section 11-121 of this Chapter in full force and effect.

No suspension after hearing shall exceed 60 days.

Strategic Priorities and Values:

Safe, Secure, Stable Community

MEMORANDUM

TO: Barb Suciu, City Clerk

FROM: Tim Gannon Chief of Police

DATE: October 11, 2018

SUBJECT: Alcohol Compliance Check-Failure

On 10/9/18 at approximately 7:30 p.m. officers from the Brooklyn Center Police Department conducted alcohol compliance checks at all on-sale liquor license holders within the City of Brooklyn Center. Officers were assisted by a BCPD Explorer who was working for the PD and is under the age of 21. When the Explorer attempted to purchase alcohol at Jammin Wings, 2590 Freeway Blvd, the bartender served the Explorer alcohol even after looking at the presented ID which clearly showed the Explorer to be under the legal age to purchase.

That bartender was then arrested and positively identified which is maintained in the official police report (BC18-004300). The arrested will be charged via formal complaint with a charge of Furnishing Alcohol to a Minor (GM).

There were no other alcohol compliance failures during this round of compliance checks.

of which are located adjacent to Lilac Drive North. The subject area for vacation was formerly used for a section of roadway that is being removed as part of the Brooklyn Boulevard Corridor Project Phase 1. This vacated area would be used to mitigate the loss of parking on the Brookdale Covenant Church property due to the installation of a new signal at Highway 100 south ramp and the extension of Lilac Drive North.

Mr. Cote described the land exchange agreement and explained the property owner will be required to dedicate a drainage and utility easement over the vacated portion of the right-of-way to maintain access to the existing utilities within the vacated area. He noted this item was first read on December 11, 2017, published in the official newspaper on December 21, 2017, and offered this evening for Public Hearing and adoption of the ordinance.

Councilmember Ryan moved and Councilmember Butler seconded to open the Public Hearing.

Motion passed unanimously.

No one appeared to address this item.

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to close the Public Hearing.

Motion passed unanimously.

Councilmember Graves moved and Councilmember Ryan seconded to adopt ORDINANCE NO. 2018-01 Vacating a Portion of Right-of-Way: Lilac Drive North.

Motion passed unanimously.

8b. CONSIDERATION OF LIQUOR LICENSE ENFORCEMENT ACTION AT JAMMIN WINGS, 2590 FREEWAY BOULEVARD

City Clerk Sharon Knutson introduced the item and stated the purpose of this agenda item to consider liquor license enforcement action at Jammin Wings, 2590 Freeway Boulevard. She presented history of this consideration, explaining that on November 27, 2017, Mr. Brown, owner of Jammin Wings, submitted a renewal application and fee for a State and City intoxicating liquor license and Sunday liquor license, as well as the City application for an optional 2 a.m. liquor license. On December 11, 2017, the City Council approved the issuance of these liquor licenses. On or about December 19, 2017, while preparing the licenses for issuance, she checked with the State of Minnesota Department of Alcohol and Gambling Enforcement Division website to make sure the 2 a.m. permit was active and discovered it had expired on August 1, 2017. Ms. Knutson stated she then contacted the Alcohol and Gambling Enforcement Division to confirm and they affirmed it had not been submitted as of that date.

Ms. Knutson stated she informed the City Manager and then Mr. Brown that the permit had lapsed so the City could not issue a liquor license until that permit had been approved by the State. Mr. Brown informed her that he had not received that application from the State and was

unaware it was not active at the time. Mr. Brown then took immediate action to renew the 2 a.m. permit with the State, which she confirmed with the State, and then issued that license.

Ms. Knutson stated on January 8, 2018, she received an email notification from the State AGED and learned the check submitted by Mr. Brown was NSF for a closed account so, therefore, the permit was not valid. In consulting with the City Manager and City Attorney, it was agreed a violation of Minnesota Statutes, Section 340A.504, subdivision 7, had occurred. Ms. Knutson noted the City Attorney has drafted a memorandum, which was provided in the meeting packet, to outline the enforcement action options that can be considered by the City Council following the Public Hearing.

Councilmember Lawrence-Anderson moved and Councilmember Graves seconded to open the Public Hearing.

Motion passed unanimously.

Mr. Brown explained that in the past, he got a package from the City to pay for the license and did not realize the State permit for optional 2 a.m. was due on August 1st. However, as the City Clerk stated, his account was closed. He said it was tampered with so the bank closed the account. He paid for the State permit, but the State took longer to go forward with the check and the account was closed by the bank on January 2, 2018. He stated he thought the State's check had cleared but it did not. Mr. Brown stated he paid the check to the State as well as the bounced check fee.

Mayor Willson explained that any time there is a violation, the City has to address it and it does not matter when it occurred, but that a violation did occur. So tonight, the City will hold the public hearing and obtain advice from staff as well as the City Attorney.

Mr. Brown stated he would like a 4 a.m. license during the upcoming Super Bowl. Mayor Willson referenced the memorandum that contained the request for the 4 a.m. license, which is a different issue than what is under consideration at this time.

Mr. Boganey asked questions of Mr. Brown to determine the dates the checks were written and when the account was closed. He recounted that the check was written on December 19, 2017, the State contacted the City on January 8, 2018, and the account closed on January 2, 2018. He asked if on December 19, 2017, when the check was written to the State there were sufficient funds on that date. Mr. Brown answered in the affirmative.

Councilmember Graves moved and Councilmember Butler seconded to close the Public Hearing.

Motion passed unanimously.

City Attorney Troy Gilchrist clarified that on Page 1 of his memorandum, last sentence, it should indicate: "This violation does <u>not</u> rise to that level." He described the range of options before the City Council for a liquor license violation, noting this does not trigger mandatory revocation but ranges from no penalty at all, a civil penalty up to $2,000, and/or suspension of the liquor license

for no greater than 60 days. He noted with each option, there is flexibility including a limited suspension or imposition of a penalty with suspension of a portion conditioned on not having another violation. Mr. Gilchrist stated the civil penalty can be in addition to suspension or revocation. He noted the violation was focused on serving after 1 a.m. without the appropriate permit.

Mayor Willson pointed out if the 2 a.m. permit is suspended, then the 4 a.m. permit cannot go forward. He asked about imposing an administration fee to cover staff time and expenses, such as is imposed with rental licenses, as well as a civil penalty so the violation is documented. Mayor Willson stated the City does not want to see any more violations but if one should occur, this will provide documentation to take stronger action. Mr. Gilchrist advised if the City Council is inclined to consider a suspension or revocation, he would recommend directing staff to prepare a resolution for consideration at the next meeting.

Councilmember Graves stated the City has been working with this business on other issues and the City Council has considered its liquor licenses, seating, and other requirements as well. She stated she enjoys going to Jammin Wings and likes that it is open until 2 a.m., noting it is one of the only Black-owned businesses in the City. But that being said, Councilmember Graves wanted to assure the rules are followed so Jammin Wings can stay there. She stated she supports imposing a civil penalty of up to $2,000 and suspending it conditioned on there being no further violations.

Mr. Brown pointed out that in the four and a half years he has been in business, there has been only one violation, which not many bars or restaurants can say.

Mayor Willson stated the City needs to be consistent with enforcing its ordinances across the board. He offered the option to consider a $1,000 civil penalty plus $300 administrative fee to cover staff time and suspend the civil penalty. He noted this would be similar to a rental ordinance violation where an administration fee is charged. Mr. Boganey stated it would probably need to be a $1,300 civil penalty and suspending $1,000. He indicated the notion of $300 being the amount to account for staff time may not be an unreasonable assessment of cost when considering his time, and the City Attorney's and City Clerk's time in dealing with this issue over the past several weeks.

Mayor Willson stated he would like to consider an administrative fee. Mr. Boganey asked whether the ordinance provides for an administrative fee penalty. Mr. Gilchrist agreed with Mr. Boganey that the penalty would need to be cast as a civil penalty, noting the City's cost at $300 is modest but would be partial reimbursement.

Councilmember Lawrence-Anderson stated that is less than she was thinking to impose but is willing to consider that level. She suggested the resolution cite that no further violations shall occur, noting the City wants to make sure the new liquor establishments it is trying to attract know they are required to follow the rules.

Mayor Willson clarified the discussion was to suspend $1,000 of the civil penalty unless another violation were to occur. In that case, the $1,000 civil penalty would be imposed.

Councilmember Ryan noted that testimony from Mr. Brown indicates there was no intentional negligence. He asked how it operates with the State when there is a glitch in the payment and whether there is no communication from the State to the license holder of the need to cure the situation. Ms. Knutson described the permitting and licensing procedure, explaining that with the 2 a.m. license, the State of Minnesota Alcohol and Enforcement Division authorizes the City to issue the liquor license. The State issues a permit for one year from whenever the applicant applies and the City issues its license the calendar year from January 1 to December 31. Ms. Knutson explained the State does not notify the City that someone did not renew their permit and from August 1 to December 19, Jammin Wings did not have permission from the Commissioner of Public Safety to operate until 2 a.m. She stated this is the first time this situation has occurred, and Mr. Brown indicated he did not get anything from the State to say he needed to renew his permit.

Mr. Boganey explained the State timeframe is based on when the business owner makes application for their first permit. Up to this year, Jammin Wings always renewed the State permit but there was a change in the management structure of the business and that did not happen.

Councilmember Ryan stated while it is the owner's responsibility, it is an example of a mistake and they need to be held responsible but not in a punitive manner. He stated his support to consider a civil penalty with the greater part suspended unless subsequent violations occur.

Mr. Gilchrist asked for a sense of duration for the subsequent violations. Mayor Willson stated the license will be renewed December 31 so the suspension could be through the license period. The City Council agreed with the logic to tie the violation term to the license term.

Councilmember Ryan moved and Councilmember Graves seconded to direct staff to prepare a resolution to impose a $1,300 civil penalty, suspending $1,000, contingent upon no further liquor license violations.

Motion passed unanimously.

Councilmember Graves stated support to consider Jammin Wings' request for a 4 a.m. liquor license.

Mayor Willson asked staff if there is an underlying issue to not consider that request. Mr. Boganey stated he has no new information but in a previous memo discussing the optional 2 a.m. liquor license elimination, it was indicated that a significant number of violations and police calls occur after 1 a.m.

Mayor Willson pointed out that another violation would go against the license.

Mr. Brown noted it is only for a short period of time, during the Super Bowl, and they will increase security during that time.

Police Chief Tim Gannon stated there are a select number of days and at this time, he would not oppose this request.

Mr. Boganey indicated under the City's ordinance, staff has the authority to issue this permit if it is not opposed by the City Council.

The consensus of the City Council was to support the administrative issuance of a 4 a.m. liquor license to Jammin Wings during the Super Bowl.

9. PLANNING COMMISSION ITEMS

- None.

10. COUNCIL CONSIDERATION ITEMS

10a. CONSIDERATION OF TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSES

Mayor Willson explained the streamlined process that will now be used to consider Type IV 6-Month Provisional Rental Licenses.

Mayor Willson polled the audience and asked whether anyone was in attendance to provide testimony on any of the rental licenses as listed on tonight's meeting agenda. Seeing no one coming forward, Mayor Willson called for a motion on Agenda Items 10a1 through 10a6.

10a1. 4200 JOYCE LANE
10a2. 6325 KYLE AVENUE N.
10a3. 6424 SCOTT AVENUE N.
10a4. RESOLUTION NO. 2018-26 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 4450 58TH AVENUE N.
10a5. RESOLUTION NO. 2018-27 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6015 ALDRICH AVENUE N.
10a6. RESOLUTION NO. 2018-28 APPROVING A TYPE IV 6-MONTH PROVISIONAL RENTAL LICENSE FOR 6718 COLFAX AVENUE N.

Councilmember Ryan moved and Councilmember Graves seconded to approve the issuance of a Type IV six-month provisional rental license and mitigation plan for the following: 4200 Joyce Lane, 6325 Kyle Avenue N., 6424 Scott Avenue N., and, adopt Resolution No. 2018-26 Approving a Type IV 6-Month Provisional Rental License for 4450 58th Avenue N.; Resolution No. 2018-27 Approving a Type IV 6-Month Provisional Rental License for 6015 Aldrich Avenue N.; and, Resolution No. 2018-28 Approving a Type IV 6-Month Provisional Rental License for 6718 Colfax Avenue N., with the requirement that the mitigation plans and all applicable ordinances must be strictly adhered to before renewal licenses would be considered.

Motion passed unanimously.

Member April Graves introduced the following resolution and moved its adoption:

RESOLUTION NO. 2018-32

RESOLUTION IMPOSING A CIVIL PENALTY FOR A LIQUOR LICENSE VIOLATION AT JAMMIN WINGS IN THE CITY OF BROOKLYN CENTER

WHEREAS, the restaurant Jammin Wings ("Business"), which is located in the City of Brooklyn Center, is licensed to sell intoxicating liquor on-sale, including to 2 a.m.; and

WHEREAS, selling liquor to 2 a.m. requires issuance of a 2 a.m. permit from the Commissioner of Public Safety ("2 a.m. State Permit") and a 2 a.m. license from the City ("2 a.m. City License"); and

WHEREAS, the City, during the processing of the 2018 renewal of the 2 a.m. City License, discovered the Business did not renew the 2 a.m. State Permit, which had expired on August 1, 2017; and

WHEREAS, the City notified the Business owner of its discovery on approximately December 19, 2017 and, on the same day, the Business owner paid to renew the 2 a.m. State Permit; and

WHEREAS, the check issued for the 2 a.m. State Permit was not cashed for nearly three weeks and only after the account was closed by the bank to protect the account; and

WHEREAS, the City received notice on January 8, 2018 that the 2 a.m. State Permit was not in effect because the check issued for the permit fee did not clear; and

WHEREAS, the City notified the Business owner on January 8, 2018 of the lack of the 2 a.m. State Permit and the same day the Business owner issued new payment and received the 2 a.m. State Permit; and

WHEREAS, the serving of liquor after 1 a.m. without a 2 a.m. State Permit is a violation of Minnesota Statutes, section 340A.504, subdivision 7 and, as a result, subjects the Business to a license enforcement action under Section 11-125 of the Brooklyn Center City Code ("Code"); and

WHEREAS, the City Council held a public hearing on the violation on January 22, 2018, after providing the Business owner at least 10 days' notice, and at which the Business owner was provided an opportunity to be heard regarding the violation and the potential penalties the City Council could impose; and

RESOLUTION NO. 2018-32

WHEREAS, the City Council considered the enforcement options presented to it in a memorandum from the city attorney dated January 12, 2018, which is incorporated in and made part of this Resolution by reference; and

WHEREAS, the City Council has considered this matter and hereby finds and determines as follows:

(a) The Business violated the Code by serving intoxicating liquor after 1 a.m. without a 2 a.m. State Permit during the period from August 1, 2017 until the permit was finally secured on January 8, 2018;

(b) The violation subjects the Business to a liquor license enforcement action under Section 11-125 of the Code including imposition of a civil penalty of up to $2,000, suspension of the liquor licenses for up to 60 days, revocation of the liquor licenses, or a combination of these penalties;

(c) The Business owner indicated that the person who had previously managed license renewals is no longer with the Business and he believed he had the required permits from the state as he received no notice that the 2 a.m. State Permit was due to renew by the end of July 2017;

(d) The city did not receive notice of the failure to renew the 2 a.m. State Permit and only learned of the non-renewal as part of its investigation into renewing the 2 a.m. City License;

(e) The failure to renew the 2 a.m. State Permit was an error of management and not an intentional violation of the Code;

(f) The failed payment for the initial renewal of the 2 a.m. State Permit was due to a unique set of circumstances and timing, not an intentional effort to obtain the permit without payment;

(g) Because the violation was not intentional, the City Council determines not to suspend or revoke the liquor licenses for the Business, but the violation needs to be recognized and the imposition of a civil penalty in the amount of $1,300 is appropriate;

(h) The city has incurred administrative and legal costs to process this license action, which are appropriate to recover from the Business as part of the civil penalty and which are set at $300; and

(i) The unintentional nature of the violation, and the Business owner's prompt actions to obtain the 2 a.m. State Permit when he learned it was not in effect, support the suspension of $1,000 of the civil penalty through the remainder of the licensing period and conditioned on the Business not having any further liquor license violations during that period.

RESOLUTION NO. 2018-32

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

1. The City Council hereby imposes a civil penalty on the licensee, Jammin Wings, in the amount of $1,300 as a result of the violation of state law and the city's Code by serving intoxicating liquor after 1 a.m. during the period from August 1, 2017 to January 8, 2018 without the required 2 a.m. State Permit.

2. The Business shall pay $300 of the civil penalty to the City to offset the administrative costs it incurred to process this liquor license action and the City Council hereby suspends imposition of the remaining $1,000 portion of the civil penalty on the condition no other liquor license violation occurs at the Business through December 31, 2018. If another liquor license violation occurs during that period, the remaining $1,000 shall immediately be imposed and become due and payable to the city.

February 12, 2018
Date

Tim Willson
Mayor

ATTEST: Sharon Knutson
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member
DAn Ryan
and upon vote being taken thereon, the following voted in favor thereof:
Tim Willson, Marquita Butler, April Graves, Kris Lawrence-Anderson, DAn Ryan
and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Selecting Presiding Officers- Mayor Pro Tem and Acting Mayor Pro Tem

Requested Council Action:

- Appoint the Mayor Pro Tem and Acting President Pro Tem for 2019

Background:

Section 2.06 of the City Charter requires the Council to choose from its members a President Pro Tem who shall hold office at the pleasure of the council and shall serve as President in the Mayor's absence and as Mayor in case of the Mayor's disability or absence from the City.

City Council Resolution No. 92-262, Establishing and Designating an Acting President Pro Tem of the City Council, states the most senior Council member shall preside in the absence of both the Mayor and President Pro Tem, and that in the event two or more members have equal seniority, then that member shall preside who received the most votes in their most recent election. Following is a list of Council members by seniority and the votes cast per member in the most recent election.

- Dan Ryan (first elected November 7, 2006)
- Kris Lawrence-Anderson (first elected November 6, 2012)
- April Graves (first elected November 4, 2014)
- Marquita Butler (first elected November 8, 2016)

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Operational Excellence

Member Dave Rosene introduced the following resolution and moved its adoption:

COPY

RESOLUTION NO. 92-262

RESOLUTION ESTABLISHING AND DESIGNATING AN ACTING PRESIDENT PRO TEM OF THE CITY COUNCIL

WHEREAS, Section 2.06 of the Brooklyn Center City Charter designates the Mayor as presiding officer of the City Council and a president pro tem who serves as president in the Mayor's absence; and

WHEREAS, the presence of three City Council members at a City Council meeting constitutes a quorum; and

WHEREAS, it is possible that both the Mayor and the president pro tem may be absent from such a meeting, consequently leaving no designated presider of the meeting; and

WHEREAS, the City Council desires to provide for an acting president pro tem who shall serve in the absence of the Mayor and president pro tem.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that the most senior Councilmember shall preside in the absence of both the Mayor and Mayor pro tem.

BE IT FURTHER RESOLVED that in the event two or more members have equal seniority, then that member shall preside who received the most votes in their most recent election.

November 23, 1992
Date

Todd Paulson, Mayor

ATTEST: Patricia A. Page
Deputy Clerk

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

Todd Paulson, Celia Scott, Jerry Pedlar, Dave Rosene, and Philip Cohen; and the following voted against the same: none,

whereupon said resolution was declared duly passed and adopted.

b. A uniform list of initial questions to be asked of all applicants shall be made available to the public and the applicants in advance of interviews. To the extent reasonably practicable, questions asked of all applicants at the interviews shall be uniform.

4. Selection Process. Upon completion of the interview process, the Council may call for a vote to appoint an applicant. Each Council member may cast only one vote for a preferred applicant on each called-for vote to appoint. No vote, which does not result in a majority vote for one candidate, shall result in elimination from consideration of any candidate. Written ballots listing the applicant(s) shall be used. Each Council member's vote shall be recorded. A simple majority of the Council votes shall appoint that applicant to the City Council.

5. If the Council pursues the appointment process but then fails to fill a vacancy within forty-five (45) days from the occurrence of the vacancy, the City Clerk shall call a special election to fill the vacancy. The special election will be held not sooner than one hundred five (105) days and not later than one hundred thirty-five (135) days following the occurrence of the vacancy and to be otherwise governed by the provisions of Section 4.03, Special Elections. If more than two candidates file for the unexpired term, a primary election shall be held.

6. The City shall comply with the Minnesota Data Practices Act in all respects in the collection, management, and dissemination of data on applicants for City Council vacancies.

Section 2.06. THE MAYOR. The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro tem who shall hold office at the pleasure of the Council and shall serve as president in the Mayor's absence and as Mayor in case of the Mayor's disability or absence from the City. The Mayor shall have a vote as a member of the Council and shall exercise all powers and perform all duties conferred and imposed upon the Mayor by this charter, the ordinances of the City, and the laws of the State. The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the Governor for the purposes of martial law. The Mayor shall study the operations of the City government and shall report to the Council any neglect, dereliction of duty, or waste on the part of any officer or department of the City. In time of public danger or emergency the Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the law.

Section 2.07. SALARIES. The Mayor and the members of the Council shall receive payment as set by ordinance. No change in salary shall take effect until the January 1 following the next succeeding general municipal election. The City Manager and all the subordinate officers and employees of the City shall receive such salaries or wages as may be fixed by the Council.

COUNCIL ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Declaring Commitment to the Brooklyn Center City Charter

Requested Council Action:

- *Approve resolution Declaring Commitment to the Brooklyn Center City Charter*

Background:

The City Manager is directed to place this resolution for re-adoption on the agenda for the first meeting of the City Council each January as information as and reminder of Council/Manager responsibilities.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Operational Excellence

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DECLARING COMMITMENT TO THE BROOKLYN CENTER CITY CHARTER

WHEREAS, Brooklyn Center voters in 1966 adopted a City Charter creating a Council/Manager form of government; and

WHEREAS, said Charter provides that the City Council shall determine all matters of policy, and the City Manager shall be the head of the administrative branch of the City Government; and

WHEREAS, the Charter provides that there be no separate administrative boards or commissions other than advisory boards or commissions; and

WHEREAS, numerous advisory commissions have served the City since adoption of the Charter; and

WHEREAS, the Charter provides that the City Manager shall control and direct all departments and divisions of the City and shall have the right to take part in Council discussion and shall recommend such measures as deemed necessary; and

WHEREAS, the Charter prohibits Council members from dictating the appointment of any person to office or employment by the City Manager except as provided in Chapter 6 of this Charter; and

WHEREAS, the Charter requires the Council to deal with and control the administrative service solely through the City Manager and prohibits any Council member from giving orders to any subordinate of the City Manager, either publicly or privately; and

WHEREAS, the City Manager is charged by the Charter to see that the City Charter and the laws and resolutions of the City are enforced; and

WHEREAS, the Council as a whole also has an obligation to ensure that its business is conducted pursuant to the City Charter and the norms of acceptable and courteous business behavior; and

WHEREAS, Council members must depend upon the City Manager and staff to provide them with a great amount of background information, data, and expertise to aid in deliberating issues, developing policy, and administering the Council's responsibilities; and

RESOLUTION NO._____

WHEREAS, the effectiveness of the services provided by the staff is in large part determined by a relationship of trust and mutual respect between the staff and the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council:

1. To rededicate itself to the spirit and letter of the City Charter and to commit itself to ensuring compliance by the City Council collectively and individually with that spirit and letter of the City Charter.

2. To rededicate itself to the checks and balances of the City Charter that keep City government accountable.

3. To pledge that in its dealings with citizens and City staff, that the City Council will treat such citizens and staff with respect and courtesy. The Council shall deal with staff in accordance with the City Charter through the City Manager.

4. To discharge its responsibilities as intended and established by federal, state, and local laws and the City Charter, and to do so in a fair and impartial manner for the good of the whole City and without regard for personal gain or interests.

5. To direct the City Manager to place this resolution for re-adoption on the agenda for the first meeting of the City Council each January hereafter, as information and reminder of Council/Manager responsibilities.

January 14, 2019 _____
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Recognizing the Contributions of Ethnic Populations and Heritage Celebrations

Requested Council Action:

- *Approve a resolution Recognizing the Contributions of Ethnic Populations and Heritage Celebrations*

Background:

Since 2003, as part of the City Council's goal of inclusiveness, one of the aspects was to recognize the various ethnic populations and their contributions as well as heritage celebrations. The proposed resolution implements that Council policy by an inclusive list of celebrations and contributions in one resolution. By adopting this resolution, the City acknowledges these many events that occur throughout the course of the year. This list is reviewed and amended annually.

Budget Issues:

There are no budget issues to consider.

Strategic Priorities and Values:

Enhanced Community Image, Inclusive Community Engagement, Operational Excellence

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION RECOGNIZING THE CONTRIBUTIONS OF ETHNIC POPULATIONS AND HERITAGE CELEBRATIONS

WHEREAS, the City Council has established a goal to promote the inclusion of all residents in Brooklyn Center's community life by emphasizing opportunities to include all residents in the community's activities and plans; and

WHEREAS, the City Council recognizes that its cultural composition has changed significantly over the past two decades, with its ethnic population over half of its total population; and

WHEREAS, Brooklyn Center is strengthened by the rich cultural diversity of its people, and welcomes individuals of all races, religions, and cultural backgrounds; and

WHEREAS, each individual brings a part of his or her own heritage and over time each heritage becomes part of our common heritage, leading us to become a more united people; and

WHEREAS, the City Council recognizes the vital contributions ethnic populations have made to the strength and diversity of our community and recognizes their rich legacy of ingenuity, perseverance, and achievement; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center that the following heritage celebrations and all other heritage celebrations reflected in Brooklyn Center's population are recognized for the purpose of encouraging our citizens to learn more about the history of ethnic populations and how they have contributed to the culture and heritage of our community:

February	African American History Month
March	Irish-American Heritage Month
March 25	Greek Independence Day
April 14	Pan American Day
May	Asian American and Pacific Islander Heritage Month
May	Jewish American Heritage Month
May 17 (Syttende Mai)	Norwegian Constitution Day
June	Caribbean-American Heritage Month
June 6	Swedish National Day
July 1	Somali Independence Day
July 26	Liberian Independence Day
September 15-October 15	Hispanic Heritage Month
October	Italian American Heritage Month
October 6	German-American Day
November	Indigenous American Heritage Month

RESOLUTION NO. _____

January 14, 2019 _____
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 ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: An Ordinance Amending Chapter 1 and 35 of the City Code of Ordinances Regarding Bee Keeping

Requested Council Action:

- Motion to approve the first reading of an Ordinance Amending Chapter 1 and 35 of the City Code of Ordinances regarding bee keeping and calling for a public hearing and second reading to be held on February 11, 2019

Background:

The City Council discussed the regulation of bee keeping at residential properties at their October 8, 2018, work session. At the meeting Staff presented information to the Council on the City's existing regulations related to the keeping of bees. The City Attorney provided an opinion that the keeping of bees is not permitted under the existing language of the City Code, which is silent on the topic.

At the meeting the Council directed staff to proceed with drafting ordinance language that would permit the keeping of bees at residential properties. The Council further directed the Housing Commission to take up the issue, review the draft ordinance language, and provide a recommendation on how to proceed.

The Housing Commission discussed bee keeping at their October and November meetings. The following recommendations were made by the Housing Commission related to the ordinance:

- Require property owners who intend to keep bees to register their properties
- Require training/certification for home owners who keep bees
- Allow for the ability to deny a registration due to a neighbor with a documented bee allergy
- Require registration renewals every 2-3 years
- Not charge a fee for registration renewals
- Not require an inspection for registration renewals

Overview of Ordinance:

- Up to 4 Hives in an R1 or R2 zoning district allowed
- Registration with city required
    - Apiary site must be inspected prior to approving registration
    - Applicant must attend a training or receive certification in bee keeping
    - Neighbors within 200 feet would be notified prior to approving a registration
    - If neighbor presents a documented bee allergy registration maybe denied
    - Registration denials can be appealed to a hearing officer and then to City Council
    - 2 year renewal for registrations
- Colony Location:
    - Must be located in rear yard

    - Must be a minimum of 30 feet from adjacent dwellings or a fly away barrier is required
- Water source required
- Bee keeping equipment shall be properly maintained and well kept

Attached to this report is the proposed ordinance, which was prepared by the City Attorney.

Also attached to this report is the November 20, 2018, Housing Commission packet which includes the October 8, 2018, City Council report, background information on bee keeping, and a copy of Brooklyn Park's bee keeping ordinance.

Budget Issues:

There will be staff time required for administering the registration application process. It is not anticipated that additional staffing will be required due to the low number of anticipated registrations.

A resolution adopting the fee for the registration will be included in the Council Report during the second reading.

Strategic Priorities and Values:

Safe, Secure, Stable Community

CITY OF BROOKLYN CENTER

Notice is hereby given that a public hearing will be held on the ____ day of _____, 2019, 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 ordinance related to beekeeping.

Auxiliary aids for handicapped persons are available upon request at least 96 hours in advance. Please notify the City Clerk at 763-569-3306 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 1 OF THE CITY CODE OF ORDINANCES REGARDING BEEKEEPING

THE CITY OF BROOKLYN CENTER DOES ORDAIN:

Article I. Brooklyn Center City Code, Section 1-101 setting out definitions is amended as follows and by renumbering the provisions in this Section as needed:

__. Accredited Minnesota Institution. Accredited Minnesota institution means an educational institution holding accredited status which has been licensed or registered by the Minnesota Office of Higher Education at the time a registrant obtained their certification.

__. Apiary. Apiary means the assembly of one or more colonies of bees on a property.

__. Apiary Site. Apiary site means the particular portions of a property upon which one or more hives are located.

__. Beekeeper. Beekeeper means a person who owns or has charge of one or more colonies of honeybees or a person who owns or controls a property on which a colony is located whether or not the person is intentionally keeping honeybees.

__. Beekeeping Equipment. Beekeeping equipment means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.

__. Colony. Colony means an aggregate of honey bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

__. Flyway Barrier. Flyway barrier means a barrier that raises the flight path of bees as they come and go from a hive.

__. Hive. Hive means the receptacle inhabited by a colony.

__. Honey Bee or Bee. Honey bee or bee means all life stages of the common domestic honey bee, *apis mellifera*. This term does not include wasps, hornets, African subspecies, or Africanized hybrids.

__. Nucleus Colony. Nucleus colony means a small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.

__. Registrant. Registrant is any registered beekeeper and any person who has applied for approval of a beekeeping registration.

__. Rooftop. Rooftop means, for the purpose of regulating beekeeping, the uppermost section of a primary or accessory structure of at least one full story and at least twelve feet in height. Areas including, but not limited to, decks, patios and balconies shall not be considered a rooftop.

__. Super. Super means a box that holds the frames where bees will store the honey.

__. Swarming. Swarming means the process where a queen bee leaves a colony with a large group of worker bees in order to form a new honey bee colony.

__. Unusual Aggressive Behavior. Unusually aggressive behavior means, for the purpose of regulating beekeeping, any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs. For the purposes of this definition, "provocation" means an act that an adult could reasonably expect may cause a bee to sting or attack.

Article II. Brooklyn Center City Code is amended by adding a new Section 1-140 regarding beekeeping as follows:

Section 1-140. BEEKEEPING.

1. Restricted. No person shall keep, harbor, maintain, or allow to be kept any hive or other facility for the housing of honeybees on or in any property in the City unless the person is registered with the City as provided in this Section and the bees are kept at an approved apiary site on the registrant's property. Hives may only be located on a single-family or two-family residential property in the R1 and R2 Zoning Districts and no more than four (4) hives may be kept on a property. The keeping of any hives in any other zoning district in the City is prohibited.

2. Registration Process.

   a. A person seeking to register to keep bees must submit an application using the City's approved form. All requested information must be provided along with the

application fee in the amount set by the City Council. Incomplete applications will not be processed.

b. The registrant shall live in the dwelling on the same property that is to serve as the apiary. If the registrant does not own the property, the property owner must provide a written statement to the City of permission for the registrant to keep bees on the property and acknowledging the City's right to inspect the property as provided in this Section.

c. Submission of an application for registration constitutes consent by the registrant, and any other person who may have an interest in the property to which the application relates, for the City to inspect the apiary sites as provided in this Section.

d. Apiary sites may only be located on a single-family or two-family residential property located in the R1 and R2 Zoning Districts.

e. The property on which an apiary is to be located must be in compliance with all applicable City regulations.

f. Each proposed apiary site must be identified on the application along with such additional information as may be required to demonstrate that each such site complies with the colony location restrictions in this Section.

g. No bees may be brought to an apiary site until it is registered by the City.

h. The initial application for registration must be accompanied by a certificate of attendance indicating the registrant has completed a beekeeping training and education course conducted by an accredited Minnesota institution.

i. The City shall inspect the property on which a new apiary site is proposed before issuing a registration for the site.

j. An application for registration shall be submitted to the Community Development Department and shall be acted on administratively. If the application proposes a new apiary site, the City shall send written notice of the proposed registration to the owners of property located within two hundred (200) feet of the property line of the property on which the new apiary site is to be located. Any owner within the notification area may submit a written objection to the registration to the City within fourteen (14) days of the date of the notice. The City shall consider the written objections received from within the notice area before acting on an application. If a resident living within the notice area submits a timely written objection that includes written medical documentation from a licensed physician that the person is allergic to honeybee venom, the City shall deny the application.

k. The City shall provide written notice of its decision on the application to the registrant and to any owner within the notice area that submitted a written objection. Any such person may appeal the City's decision by filing a notice of appeal with the City within fourteen (14) days of the date of the notice of decision. The notice of appeal must state the specific grounds for the appeal and identify the requested relief. Timely appeals shall be processed and acted on as provided in this Section.

l. An approved registration is limited to the particular person and the approved apiary sites only. Any proposed change in the beekeeper, apiary site, or the addition of a new apiary site shall require a new registration.

m. A registration shall be valid until March 31 of the second calendar year following initial issuance and shall be renewed by the registrant prior to expiration every other year by submitting a renewal form to the Community Development Department on the form provided by the City. If the registration is not renewed, the beekeeper is required to remove all bees and beekeeping equipment from the property within ninety (90) days.

3. Inspections.

a. If an application is for a new apiary site, the City shall inspect the property prior to acting on the registration.

b. Upon prior notice to the owner of the apiary, City staff shall have the right to inspect any registered apiary.

c. In the case of a complaint regarding an apiary, City staff may inspect the apiary at all reasonable times without prior notice to the owner of the apiary.

4. Colony Location Restrictions. A registrant shall locate hives in accordance with all of the following provisions.

a. Entirely in rear yard of the property.

b. At least five (5) feet from side or rear lot lines and shall not be erected, altered, or moved within six (6) feet of the principle building, as measured from exterior wall to exterior walls.

c. At least thirty (30) feet from all dwellings on adjacent properties.

d. Not located closer to an adjacent street than the dwelling on the property. This restriction does not apply to an alley that may be adjacent to a property.

e. Except as otherwise provided in this paragraph, in each instance where any part of a hive is kept within thirty (30) feet of a lot line of the apiary site, a flyway barrier

of at least six (6) feet in height must be constructed that complies with the following:

1) The flyway barrier must consist of a wall, fence, or dense vegetation that requires honey bees to fly over, rather than through, the barrier;

2) If a dense vegetation flyway barrier is used, the initial planting may be a minimum of four (4) feet in height, but the vegetation must reach a height of at least six (6) feet within two (2) years after installation;

3) If a wall or fence flyway barrier is used, the materials must be decay resistant, maintained in good condition, and constructed in accordance with Chapter 35 of this Code;

4) The flyway barrier must extend parallel to the lot line of the apiary site for at least ten (10) feet in both directions from the hive or must contain the hive or hives in an enclosure at least six (6) feet in height; and

5) A flyway barrier is not required if the hive is located on a rooftop.

5. Conditions. The following conditions and requirements apply to every registration issued by the City under this Section. Failure to comply with any of these conditions, or any other requirements of this Section, shall constitute sufficient grounds to suspend, revoke, or non-renew a registration.

a. Compliance with all standards, requirements, and limitations contained in this Section.

b. No more than four (4) hives may be kept at an approved apiary site.

c. The hives shall be removed and the property restored if the keeping of bees is discontinued for more than six (6) months.

d. A registrant is prohibited from keeping bees at any location in the City other than the apiary sites approved for a property as part of the registration.

e. Honeybee colonies shall be kept in hives with removable frames which shall be kept in sound and usable condition.

f. For each colony permitted to be maintained by this Section, there may also be maintained upon the same apiary, one nucleus colony in a hive structure not to exceed one standard nine and five-eighths (9 5/8) inch depth box, 10-frame hive body with a maximum of five (5) supers.

g. Colonies within an apiary shall be provided with a convenient source of water, which must be located within ten (10) feet of each active colony.

h. Beekeeping equipment must be maintained in good condition, including keeping the hives free of chipped and peeling paint (if painted), and any unused equipment must be stored in an enclosed structure.

i. Materials from a hive such as wax combs or other materials that might encourage robbing by other bees shall be promptly disposed of in a sealed container or placed within a building or other bee and vermin proof enclosure.

j. Hives shall be continuously managed to provide adequate living space for their resident honeybees in order to prevent swarming.

k. In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly re-queen the colony.

6. Temporary Keeping. If a registered beekeeper serves the community by removing a swarm or swarms of honeybees from locations where they are not desired, that person shall not be considered in violation of the colony density restrictions in this Section if the following conditions are met:

a. The beekeeper temporarily houses the honeybees at an apiary site of a beekeeper registered with the City;

b. The bees are not kept for more than thirty (30) days; and

c. The apiary site remains in compliance with the other provisions of this Section.

7. Suspension, Revocation, or Non-Renewal.

a. The City may suspend, revoke, or non-renew any registration issued under this Section due to any of the following:

1) The keeping of honeybees in a manner which constitutes a nuisance to the health, safety, or general welfare of the public;

2) Fraud, misrepresentation, or a false statement contained in a registration or renewal application, or during the course of the registered activity; or

3) Any violation of the conditions or requirements of this Section, or of any applicable provisions in this Code related to the property.

b. The City shall provide the registrant written notice of a violation and identify the period in which the violation must be corrected. If the registrant fails to correct the violation in accordance with the notice, the City may provide the registrant a written notice of its intent to suspend, revoke, or non-renew the registration. The notice shall indicate the registrant has an opportunity to be heard before the City

takes any action on the registration. If requested, the City shall schedule a hearing and provide notice to the registrant. The City Manager may elect to conduct the hearing or to assign the matter to a hearing officer appointed by the City. The decision of the City Manager or the hearing officer on the suspension, revocation, or non-renewal shall be issued in writing and provided to the registrant. The registrant may appeal the decision by filing a notice of appeal with the City within fourteen (14) days of the date of the notice of decision. The notice of appeal must state the specific grounds for the appeal and identify the requested relief. Timely appeals shall be processed and acted on as provided in this Section.

8. Appeals. An appeal brought under this Section shall be heard by a hearing officer appointed by the City. The City shall provide the appellant at least ten (10) written notice of the hearing. At the hearing, the appellant may speak and present witnesses and other evidence. If the registrant is not the appellant, that person shall also be provided an opportunity to speak and present witnesses or other evidence at the hearing. Upon the conclusion of the hearing, the hearing officer shall issue a written decision that includes findings of fact. The City shall provide the appellant and the registrant (if not the appellant) a copy of the hearing officer's decision.

Article III. Section 35-310 of the Brooklyn Center City Code regarding R1 One Family Residence District is hereby amended as follows:

Section 35-310. R1 ONE FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

   a. One family dwellings.

   b. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory uses. Such accessory uses to include but not be restricted to the following:

      1) Offstreet parking and offstreet loading.

      2) Renting of not more than two indoor parking spaces.

      3) Accessory buildings or carports, either detached or attached to the dwelling building, subject to the limitations set forth in Section 35-530.

      4) Public recreational structures in parks, playgrounds and athletic fields.

      5) Playground equipment and installations, including private swimming pools and tennis courts.

6) Home occupations not to include special home occupations as defined in Section 35-900.

7) Signs as permitted by the Brooklyn Center Sign Ordinance.

8) A temporary real estate tract office for the purpose of selling lots on the tract upon which it is located.

9) The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate offstreet parking is provided.

10) Tents, stands and other temporary structures for churches, charities, carnivals and similar purposes as provided by Section 35-800 of these ordinances.

11) Rummage sales as defined in Section 35-900.

12) The keeping of chickens, subject to the limitations set forth in Section 1-130.

13) The keeping of bees, subject to the limitations set forth in Section 1-140.

Article IV. Section 35-311 of the Brooklyn Center City Code regarding R2 Two Family Residence District is hereby amended as follows:

Section 35-311. R2 TWO FAMILY RESIDENCE DISTRICT.

1. Permitted Uses

a. One and two family dwellings.

b. Accessory uses incidental to the foregoing principal uses or to the following special uses when located on the same property with the use to which it is accessory, but not including any business or industrial accessory uses. Such accessory uses to include but not be restricted to the following:

1) Offstreet parking and offstreet loading.

2) Renting of not more than two indoor parking spaces.

3) Accessory buildings or carports, either detached or attached to the dwelling building, subject to the limitations set forth in Section 35-530.

4) Public recreational structures in parks, playgrounds and athletic fields.

5) Playground equipment and installations, including private swimming pools and tennis courts.

6) Home occupations not to include special home occupations as defined in Section 35-900.

7) Signs as permitted by the Brooklyn Center Sign Ordinance.

8) A temporary real estate tract office for the purpose of selling lots on the tract upon which it is located.

9) The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate offstreet parking is provided.

10) Tents, stands and other temporary structures for churches, charities, carnivals and similar purposes as provided by Section 35-800 of these ordinances.

11) Rummage sales as defined in Section 35-900.

12) The keeping of chickens, subject to the limitations set forth in Section 1-130.

13) The keeping of bees, subject to the limitations set forth in Section 1-140.

Article V. Licensing Deadline. Beekeepers currently operating in the City prior to the effective date of the Ordinance shall have until July 1, 2019 to apply for registration under Section 1-140. Any hives within the City that are not kept by a registered beekeeper at an approved apiary site shall be removed by September 1, 2019.

Article VI. Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ___ day of _____, 2019.

_____
Mike Elliott, Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

(~~Strikeout~~ indicates matter to be deleted, double underline indicates new matter.)

HOUSING COMMISSION MEMORANDUM

DATE: November 20, 2018

TO: Housing Commission

FROM: Jesse Anderson, Deputy Director of Community Development/HRA Specialist

SUBJECT: Discussion on Honey Bee Keeping

Recommendation:

It is recommended that the Housing Commission provide direction to staff on a draft Bee keeping ordinance and/or a recommendation not to permit Bee keeping.

Background:

The City Code is largely silent on the keeping of bees, but that the language that did exist could be interpreted to prohibit the keeping of bees. However, the City's past practice has been to not prohibit the keeping of honey bees.

The City Council discussed bee keeping at the October 8, 2018 Council Work session and has directed staff to work through he Housing Commission and the Planning Commission to provide a recommendation relating to the keeping of bees.

It was discussed at the last Housing Commission Meeting that Staff would prepared a draft ordinance for review or modification. Further, Gary Reuter from the University of Minnesota Bee Lab has been invited to attend the Housing Commission meeting to provide additional input and answer question.

<u>Ordinance Overview:</u>

Allows for up to 4 Hives
Must be located in backyard
30 feet from adjacent dwellings or provide a flyaway barrier
License required and appeal process for denial
Should it include beekeeper training?

Attachments:
Draft Ordinance
Bee Keeping Proposal from Resident
10-8-2018 Work-session Memo
Brooklyn Park Bee Keeping Packet
Minneapolis Bee Keeping Information
University of Minnesota Bee Keeping Ordinance Comparison

BEEKEEPING

DEFINITIONS

APIARY. The assembly of one or more colonies of bees on a single lot .

APIARY SITE. The lot upon which an apiary is located.

BEEKEEPER. A person who owns or has charge of one or more colonies of honeybees or a person who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honeybees.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY. An aggregate of honey bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs and honey.

FLYWAY BARRIER. A barrier that raises the flight path of bees as they come and go from a hive.

HIVE. The receptacle inhabited by a colony.

HONEY BEE. All life stages of the common domestic honey bee, *apis mellifera.* This definition does not include wasps, hornets, African subspecies or Africanized hybrids.

NUCLEUS COLONY. A small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.

BEE KEEPING LICENSE. Any registered beekeeper and any person who has applied for approval of a beekeeping license.

ROOFTOP. The uppermost section of a primary or accessory structure of at least one full story and at least twelve feet in height. Areas including but not limited to decks, patios and balconies shall not be considered a rooft op.

SUPER. A box that holds the frames where bees will store the honey.

SWARMING. The process where a queen bee leaves a colony with a large group of worker bees in order to form a new honey bee colony.

UNUSUAL AGGRESSIVE BEHAVIOR . Any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs. Provocation is an act that an adult could reasonably expect may cause a bee to sting or attack.

Section 1-130. BEE KEEPING.

1. No person shall keep, harbor, maintain or allow to be kept any hive or other facility for the housing of honeybees on or in any property in the City without an approved Bee Keeping License.

2. Keeping. Up to four(4) hives may be kept on a single-family or two-family residential property in the R1 and R2 Zoning Districts. The keeping of any hives in any other zoning district in the City is prohibited.

3. Requirements. Hives allowed by this Section shall be kept in accordance with all of the following:

    a. Honeybee colonies shall be kept in hives with removable frames which shall be kept in sound and usable condition

    b. For each colony permitted to be maintained in this section, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard nine and five-eighths (9 5/8) inch depth box, ten frame hive body with a maximum of 5 supers.

    c. Colonies on the apiary site shall be provided with a convenient source of water which must be located within 10 feet of each active colony.

    d. Beekeeping equipment must be maintained in good condition, including keeping the hives free of chipped and peeling paint if painted, and any unused equipment must be stored in an enclosed structure.

    e. Materials from a hive such as wax combs or other materials that might encourage robbing by other bees shall be promptly disposed of in a sealed container or placed within a building or other bee and vermin proof enclosure.

    f. Hives shall be continuously managed to provide adequate living space for their resident honeybees in order to prevent swarming.

    g. In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly re-queen the colony.

4. The colony must be located in accordance with all of the following:

    a. Located Entirely in rear yard of the property;

    b. At least five (5) feet from side or rear lot lines and shall not be erected, altered, or moved, within six (6) feet of the principle building, as measured from exterior wall to exterior wall;

    c. At least thirty (30) feet from all dwellings on adjacent properties; and

    d. Shall not be located closer to an adjacent street than the owner's dwelling.

    e. Shall be removed and the site restored if the keeping of bees is discontinued for more than six (6) months.

    f. Except as otherwise provided in this Section, in each instance where any part of a hive is kept within thirty feet of a lot line of the apiary site, a flyway barrier of at least six feet in height must be constructed .

        (1) The flyway barrier must consist of a wall, fence, or dense vegetation that requires

honey bees to fly over, rather than through, the barrier.

(2) If a dense vegetation flyway barrier is used, the initial planting may be a minimum of four feet in height, but the vegetation must reach a height of at least six feet within two years after installation.

(3) If a wall or fence flyway barrier is used, the materials must be decay resistant, maintained in good condition and constructed in accordance with Sections 152.291-152.293 of this code.

(4) The flyway barrier must continue parallel to the lot line of the apiary site for at least ten feet in both directions from the hive or must contain the hive or hives in an enclosure at least six feet in height.

(5) A flyway barrier is not required if the hive is located on a rooftop.

5. If any beekeeper serves the community by removing a swarm or swarms of honeybees from locations where they are not desired, that person shall not be considered in violation of the colony density restrictions in this section if the following conditions are met:

   a. The person temporarily houses the honeybees at an apiary site of a beekeeper licensed with the City,

   b. The bees are not kept for more than thirty days, and

   c. The site remains in compliance with the other provisions of this section.

6. Bee Keeping License Required

a. The application for license must be upon a form provided by the City. All required information must be complete.

b. Each apiary site must apply for a license and receive approval prior to bringing any honeybees into the City.

c. If the beekeeper relocates a hive or colony to a new apiary site, the beekeeper shall apply for an updated license, prior to the relocation, on the form provided by the City.

d. The beekeeping license shall be valid until March 31 of each calendar year following initial issuance and must be renewed by the registrant prior to expiration each year by submitting a renewal form to the Community Development Department on the form provided by the City.

e. Upon receipt of an application for initial registration, the City will send written notice to all owners of properties located within 200 feet of the property line of the apiary site(s) identified on the application. Any objections to the license must be made in writing and received within fourteen (14) days of mailing the notice. If any written objection is received, the license application must be referred to the City Manager.

(1) The license application must be denied if the City receives a written objection from a resident living within the designated notification area that includes medical documentation by a licensed physician of an allergy to honeybee venom.

f. Beekeeping training and education is required for the beekeeper prior to the issuance of the initial beekeeping permit by the City. At the time of application for license, the beekeeper must submit a certificate of completion of a honeybee keeping course from an accredited Minnesota institution.

g. The fees for the license will be determined by the City Council in the City's fee schedule.

h. The property must be in compliance with all other applicable City regulations in order to receive approval and renewal.

i. If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the City Manager.

j. Beekeepers operating in the City prior to the effective date of the Section will have until July 1, 2019 to apply for registration.

k. Upon initial license, annual renewal or any updated license, each beekeeper must allow for an inspection of the site.

l. Upon prior notice to the owner of the apiary site, City staff shall have the right to inspect any apiary.

m. In the case of a complaint regarding the apiary, the apiary site may be inspected without prior notice.

7. APPEAL AND HEARING PROCEDURE

a. Licenses issued under this Section may be denied, revoked or non-renewed due to any of the following:

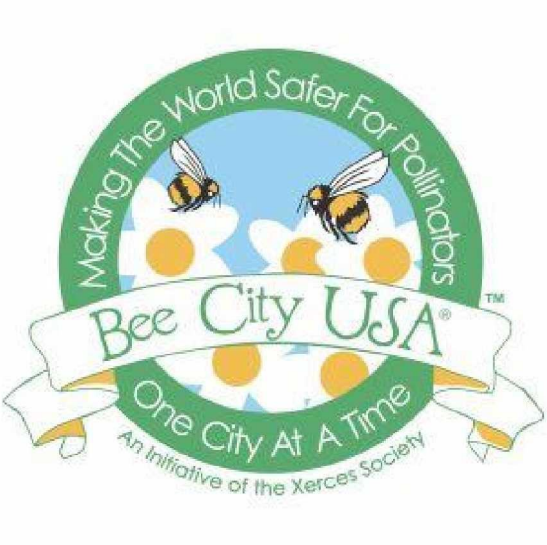
(1) The keeping of honeybees in a manner which constitutes a nuisance to the health, safety or general welfare of the public;

(2) Fraud, misrepresentation, or a false statement contained in the license application or during the course of the registered activity ;

(3) Any violation of the applicable provisions in this Chapter.

b. Notice of approval, denial, revocation or non-renewal must be made in writing to the registrant and to any person opposing the application for initial license specifying the reason(s) for the action. The registrant or any person opposing the application may request a hearing within fourteen (14) days of the date of the notification letter.

c. A hearing officer shall hold a hearing on a contested approval, denial, revocation, or non-renewal. The hearing officer shall be a person appointed by the City. At the hearing, the applicant and any person objecting to the application for initial license may speak and may present witnesses and other evidence. Upon the conclusion of the hearing, the hearing officer shall issue a written decision that includes findings of fact. The city shall provide the registrant and any objecting party with a copy of the hearing officer's decision. The registrant may appeal the hearing officer's decision in accordance with state law.



1. Purpose

Honeybees are an asset to the community and important in the pollination of plants and production of honey and other products. The purpose of this ordinance is to allow for the hobby of keeping honeybees and to establish certain requirements for beekeeping within the City, to avoid issues which might otherwise be associated with beekeeping in populated areas. **Urban beekeeping** is the practice of keeping bee colonies in urban areas. It may also be referred to as **hobby beekeeping** or **backyard beekeeping**. Bees from city apiaries are said to be "healthier and more productive than their country cousins".[1] Their presence also provides cities with environmental and economic benefits.

Most cities in North America at one time prohibited the keeping of bees, but in recent years beekeepers have had success in overturning bee bans. Bees pollinate a wide variety of plants, and the honey they produce is often sold to local restaurants and in local shops.

2. Definitions

-Apiary. The assembly of one or more colonies of bees on a single lot.

-Apiary Site. The lot upon which an apiary is located.

-Beekeeper. A person who owns or has charge of one or more colonies of honeybees or a person who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honeybees.

-Beekeeping Equipment. Anything used in the operation of an apiary, such as hive

bodies, supers, frames, top and bottom board and extractors.

-Colony. An aggregate of honeybees consisting principally of workers, but having,

when perfect, one queen and at times drones, brook, combs and honey.

-Hive. The receptacle inhabited by a colony.

-Honeybee. All life stages of the common domestic honeybee, apis mellifera. This definition does not include wasps, hornets, African subspecies or Africanized hybrids.

-Nucleus Colony. A small quantity of honeybees with a queen housed in a smaller

than usual hive box designed for a particular purpose, and containing no supers.

-Queen. An adult mated female that lives in a honeybee colony or hive that is usually the mother of most, if not all, of the bees in the beehive. A queen is developed from larvae selected by workers bees and specifically fed in order to become sexually mature.



-Residents on in Brooklyn Center may be permitted to keep and raise honeybees as a hobby and shall be limited to 4 colonies per property.

-Honeybee colonies shall be kept in hives with removable frames which shall be kept in sound and usable condition

-Hives must be located a minimum of 10 feet from any adjacent dwelling unit.

-If the front entrance of a hive faces a neighbors property and is less than 20 feet from your property line, a flyway barrier (wall, fence, dense vegetation, or combination) must be installed.

-Beekeeping equipment must be maintained in good condition, including keeping the hives free of chipped and peeling paint if painted, and any unused equipment must be stored in an enclosed structure.

-Unused beekeeping equipment should be kept secure from weather,attracting varmints potential theft, or occupancy by swarms.

-If any Brooklyn Center beekeeper serves the community by removing a swarm or swarms of honeybees from locations where they are not desired, that person shall not be considered in violation of the colony density restrictions in this section if the following requirements are met:

(1) The bees are not kept for more than thirty (30) days; and

(2) The site remains in compliance with the other provisions of this section.

-Colonies on the apiary site shall be provided with a convenient source of water which must be located within 10 feet of each active colony.

-For each colony permitted to be maintained in this section, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard nine and five-eighths (9 5/8) inch depth box, ten frame hive body with a maximum of 5 supers.

HOUSING COMMISSION MEMORANDUM

DATE: October 16, 2018

TO: Housing Commission

FROM: Jesse Anderson, Deputy Director of Community Development/HRA Specialist

SUBJECT: Discussion on Honey Bee Keeping

Recommendation:

It is recommended that the Housing Commission provide direction to staff on a draft Bee keeping ordinance and/or a recommendation not to permit Bee keeping.

Background:

The City Code is largely silent on the keeping of bees, but that the language that did exist could be interpreted to prohibit the keeping of bees. However, the City's past practice has been to not prohibit the keeping of honey bees.

The City Council discussed bee keeping at the October 8, 2018 Council Work session and has directed staff to work through he Housing Commission and the Planning Commission to provide a recommendation relating to the keeping of bees.

<u>Ordinance Consternations:</u>

Should Honey Bee's be a permitted use in residential districts?
If so, should a license be required?
How many hives should be allowed?
What should the setback be?

Attachments:
10-8-2018 Work-session Memo
Brooklyn Park Bee Keeping Packet
Minneapolis Bee Keeping Information
University of Minnesota Bee Keeping Ordinance Comparison

MEMORANDUM - COUNCIL WORK SESSION

DATE: 10/8/2018

TO: Curt Boganey, City Manager

FROM: Meg Beekman, Community Development Director

SUBJECT: Honey Beekeeping

Recommendation:

- Consider providing direction to staff of the enforcement of the code as it pertains to Honey Beekeeping

Background:

The City received a complaint regarding a resident keeping honey bees on their property. This is the first such complaint in recent memory. The City's Code Enforcement Inspector did investigate and confirm the keeping of honey bees on the property.

You may recall that on May 29th staff presented the issue of bee keeping to the City Council; however, the discussion largely focused on the keeping of native pollinator bees. At that meeting we informed the Council that the City Code is largely silent on the keeping of bees, but that the language that did exist could be interpreted to prohibit the keeping of honey bees; however, the City's past practice has been to not prohibit the keeping of honey bees. We asked the Council to provide direction on whether staff ought to amend the ordinance.

The Council's direction as staff understood it was to not make any changes to the ordinance, and discussion ensued on the allowance of native bee habitats, provided they also were in keeping with other property maintenance code provisions. The minutes from the meeting did not include the Council's direction on honey bees specifically.

The City Attorney, has since reviewed the City Code, and does feel that the current code prohibits the keeping of honey bees. While the City does not need to enforce this provision, Staff would recommend that if the City Council does want to expressly allow honey bees that the ordinance should be amended to more clearly state this. Amending the City Code would put the City on firmer legal footing should ever a lawsuit occur regarding the non-enforcement of this particular item.

If the Council wants to prohibit honey bees, the ordinance would not need to be amended; however, it would be helpful if the Council provided clear direction in this regard, since it would constitute a change in past practice.

Policy Issues:

- Does the Council want to continue to allow honey bees?
- Should the City Code be modified to expressly allow honey bees?

Strategic Priorities and Values:

Safe, Secure, Stable Community

Bee Lab

Ordinances

Although we try to keep this as up to date and accutate as possible, we recommend that you connect with your local authority to verify all information regarding bee ordinances. If you have additions or changes that should be made to this information please email Gary at reute001@umn.edu (mailto:reute001@umn.edu)

Fellow bee lovers, it seemed that it might be useful to have an index of local bee ordinances.

As part of a summer clerkship at the Best & Flanagan law firm, University of Minnesota law student Ashleigh Leitch compiled the attached list including hyperlinks to ordinances and regulations where available along with city contact information. As you all continue to proselytize about urban beekeeping this list may be of some use. Ashleigh gets the credit for assembling in research supported by Best & Flanagan.

Information current as of date shown.

City	County	Ordinance Citation	Ordinance Language
Andover	Anoka	Title 5, Chapter 1, Section (d)	Must be zoned R1, R2, or R3 and have at least two acres.
Anoka	Anoka	Section 10-2	Bees are not mentioned in the city code, but the city planner said she would consider honey bees to be "non-domesticated" animal. The code
Apple Valley	Dakota		Currently, no ordinance on bees. However, code prohibits non-domestic animals, and City interprets bees as non-domestic. City is revising the
Arden Hills	Ramsey	Chapter 13, 25.07	Bees are considered farm animals and are allowed within city limits as long as the lot meets the set back requirements (which depend upon h
Bayport	Washington	Section 14	Honey bees are not allowed within City limits.
Blaine	Anoka	Section 14-225	Areas zoned residential may not have honey bees. Areas zoned agricultural may have honey bees.
Bloomington	Hennepin	Section 12.116(a)(2)	Owners of bees, shall have at least one acre per bee hive not exceeding twenty-four (24) cubic feet in size. Farm poultry, farm animals and be of the farm poultry, farm animals and bees shall live in the dwelling on the property.
Brooklyn Center	Hennepin	Section 1-101	No mention of bees in ordinances, so honey bees are permitted.
Brooklyn Park	Hennepin	Section 92.50	Honey bees are permitted in lots over 5 acres. Other require registration.
Burnsville	Dakota	Section 6-2-20	Honey bees are prohibited in all parts of Burnsville.
Carver	Carver	Section 1005.02	Codicil 1 allows animals not listed under Section 1005.02 in city limits as long as they are not a nuisance. Therefore, honey bees are allowed a
Centerville	Anoka	Chapter 90.02(B)	"Licensing Honey Bees. Notwithstanding other provisions of this chapter, a person may keep honey bee colonies on any premises after first ob except in compliance of this section. (1) Lot size shall be a minimum of one-half acre; (2) No more than two honey bee colonies shall be allow Applicant must document at least 16 hours of training in beekeeping, and (5) the colony shall be maintained in good order and not be a nuisar
Champlin	Hennepin		Honey bees are not mentioned within Champlin's ordinances. The City would allow honey bees as long as they were not a nuisance and the n
Chanhassen	Hennepin and Carver	Chapter 20	Bees are considered a farm animal and are allowed on properties of 10 acres or more.
Chaska	Carver	Chapter 5, Section 82	The Chaska Police Department is in charge of code enforcement. Police officer told me they would allow a honey bee hive as long as it didn't
Circle Pines	Anoka	Section 320.02(B)	"Licensing Honey Bees. Notwithstanding other provisions of this chapter, a person may keep honey bee colonies on any premises after first ob except in compliance of this section. (1) Lot size shall be a minimum of one-half acre; (2) No more than two honey bee colonies shall be allow Applicant must document at least 16 hours of training in beekeeping, and (5) the colony shall be maintained in good order and not be a nuisar
Coon Rapids	Anoka	6-502(2), (5)	"Non-domestic animals are defined as … bees. It shall be unlawful to keep, maintain, harbor, or feed any non-domestic animal within the City
Corcoran	Hennepin		Section 1020.020: bees are agricultural use. Allowed in areas zoned for agricultural use.

Cottage Grove	Washington	Section 11-3-7	Bees are considered a farm animal and are allowed on properties of 5 or more acres. Section defining "farm animal" is 11-1-3.
Crystal	Hennepin		City ordinances do not cover bees. Therefore, bees are allowed.
Dayton	Wright and Hennepin	Section 1001.42 subd.8(1)(e)	Honey bees are prohibited in areas zoned residential - Old Village, residential - mobile home, industrial and business, unless you have a cond
Duluth	St. Louis	1959-6-80	Ok in areas zoned rural;. Others require license.
Eagan	Dakota	Section 10.12	Honey bees may be kept on properties in areas that are zoned agricultural and have a minimum of five acres. Or by permit.
Edina	Hennepin	Section 300.11	Bees are allowed with permit. ordinance link (http://edinamn.gov/edinafiles/files/Advisory_Boards/Planning_Commission/Staff%20Reports/2014/Nov12/Item%20VIII_%20A_
Elko New Market	Scott	Section 6-4-5	Section 6-4-2 Honeybees are considered a farm animal. Section 6-4-5 states, "Farm animals shall be kept only in areas approved under the c
Excelsior	Hennepin	Section 6-4	Ordinance defines "undomesticated animal" as "any animal, mammal, amphibian, or reptile, which is of a species which is wild by nature or of inherently dangerous to human beings." "Any person may own, keep, harbor, or maintain any nondomesticated animal, provided that it weighs
Falcon Heights	Ramsey	Section 113-3	Honey bees are defined as a farm animal. Farm animals are not allowed to be harbored within the city. The Falcon Heights City Council looke
Faribault	Rice	2017-4	Bees allowed by permit
Farmington	Dakota	6-4-2	Allowed with restrictions http://sterlingcodifiers.com/codebook/index.php?book_id=463&chapter_id=2... (http://sterlingcodifiers.com/codebo
Forest Lake	Anoka	Chapter 99	Bees are defined as a farm animal. City code allows farm animals in areas zoned for agricultural use and if the property is five acres or more.
Fridley	Anoka	Section 101.05	Allowed by permit. application at FridleyMN.gov
Golden Valley	Hennepin	Section 10.32	Honey bees are defined as a farm animal. Farm animals are not allowed to be harbored within the city.
Hastings	Dakota and Washington	Chapter 91.01	Bees are not mentioned in the city code, so they are permitted. City planner warned that if the bees stung people or upset the neighbors, they
Hibbing	St. Louis	Section 10.23	Honey bees are defined as a farm animal. Farm animals are not allowed to be harbored within the city.
Hopkins	Hennepin		Hopkins Code of Ordinances does not address honey bees, so they interpret that to mean they are not permitted.
Hugo	Washington		Although not expressly listed in the ordinance, honey bees are considered "farm animals," so they are allowed in areas zoned agricultural and
Independence	Hennepin	510.05 subd. 46	Defines bees as "livestock." Bees are allowed in areas which are zoned agricultural.
Inver Grove Heights	Dakota	Section 10-2-2	Bees are allowed in areas zoned agricultural or estate.
Jordan	Scott		No ordinance, so bees are not allowed. Perhaps could apply for a conditional use permit stating beekeeping as a home occupation.
Lake Elmo	Washington	Title 9, Chapter 95.71	Honey bees are allowed on property five acres or more. Permit required for under 5 acres.
Lake St. Croix Beach	Washington	No online ordinances	No one from the City returned my messages.
Lakeville	Dakota	title 11-35-3	Bees are classified as farm animals and are not allowed on residential property,
Lauderdale	Ramsey	Section 5-3-1	Bees are defined as a farm animal. City ordinance 5-3-4-1 requires a permit to have a farm animal.

Lilydale	Dakota	Section 801.01	It's unclear if bees are allowed or not in the ordinances, and no one at the City returned my phone messages.
Lino Lakes	Anoka	Zoning	Restricted to agricultural zoned land
Long Lake	Hennepin		Honey bees are not mentioned in the Code. City of Long Lake's general position is if it is not expressly allowed, it is prohibited.
Lonsdale	Rice	S90.01	Beekeeping allowed by permit.
Mahtomedi	Washington	Chapter 3.02	"No person may keep within the City any of the following: any hive or other facility for the housing of bees."
Maple Plain	Hennepin		Honey bees are not mentioned in the Code. City of Maple Plain's general position is that they are allowed, but are subject to the nuisance ordi
Maplewood	Ramsey		Considering an urban agriculture ordinance, but so far no actual ordinance. Bees are allowed unless they become a nuisance.
Marine on St. Croix	Washington	Chapter 5	City of Marine on St. Croix does not have an ordinance about honey bees. The City's position is that they are allowed unless they are a nuisar
Medicine Lake	Hennepin	Section 200.2(7)(b)	Bees are classified as farm animals. Must get a conditional use permit to have bees.
Mendota Heights	Dakota	Ordinance 448, not yet codified	Brand new ordinance: Bee keeping is allowed on properties of fifty (50) acres or more.
Minneapolis	Hennepin	Section 74.80	Must get a permit from Minneapolis Animal Care and Control.
Minnetonka	Hennepin		No ordinance on bees, so bees are allowed unless they are a nuisance.
Village of Minnetonka Beach	Hennepin	Section 508(C)(28)(b)	"No person shall keep or allow to be kept any hive or other facility for the housing of honeybees."
Minnetrista	Hennepin	Section 1110.09	Bees are considered farm animals. "Farm animals may only be kept in A or AP zoning districts, or in a residential lot of at least ten acres in siz 300 feet of an adjoinin piece of property."
Moundsview	Ramsey	Title 700 Chapt 701	Bees allowed by permit. Link to permit (http://www.ci.mounds-view.mn.us/vertical/sites/%7B9DACB450-86B3-4304-946D-6016EF7(
New Brighton	Ramsey		Honey bees requrie permit link to pemit (//www.ci.new-brighton.mn.us/vertical/sites/%7B2CF34F28-6DFB-45DA-AF59-36896254F2
Newport	Washington	Section 600.21	Honey bees are considered a farm animal. Must have a permit from the City Council. Lot size must be at least four acres. Must provide writter hive. Additional standards of practice listed in Section 600.21 subd. 3(F)(4).
North St. Paul	Ramsey	Section 95.23	Honey bees are classified as a farm animal. No farm animals are allowed within city limits.
Oak Park Heights	Washington	Section 602.02(B)	Honey bees are classified as a farm animal. Farm animals are only permitted in areas zoned O - Open Space Conservation District and also r
Oakdale	Washington	Section 4-18	"No person shall keep or allow to be kept any man-made or manufactured hive or other facility for the housing of bees within the city without a
Orono	Hennepin	Section 62-1	Honey bees are classified as a farm animal and are allowed in areas zoned for agriculture.
Osseo	Hennepin	Chapter 93.18(z)	City code states that any caring for any non-domestic animal is a public nuisance, so beekeeping currently is not allowed. However, City Attorı change the ordinance.
Plymouth	Hennepin	Zoning Ordinance 21170.01 subd.3	Bees are only allowed in areas zoned future restricted development (rural).
Prior Lake	Scott		No ordinance, so bees are allowed unless they are a nuisance.
Richfield	Hennepin	Section 905.41	Bees are considered non-domestic animals. All non-domestic animals are prohibited.
Robbinsdale	Hennepin	Section 915.37	"It is unlawful to keep or maintain roosters or bees, without first having obtained a permit therefor."

Rogers	Hennepin	Section 125-1	Bees are classified as a farm animal and are allowed in areas zoned agricultural.
Rosemount	Dakota		No ordinance on honey bees, so they are allowed.
Roseville	Ramsey		No ordinance on honey bees, so they are allowed. The City reserves the right to regulate location and fencing in the future.
Sauk Rapids	Benton	Section 4.10, Subd.22(C)	Permits beekeeping limited to six hives.
St. Anthony Village	Hennepin		No ordinance on honey bees, so City of St. Anthony Village's position is that they are not allowed.
St. Francis	Anoka	Section 8-3-5	"Bees shall not be kept on parcels smaller than five (5) acres in size. No parcel shall have more than one hive or colony housing structure not use. All hives shall be of the removable frame type. All hives shall be kept one hundred (100) feed from any property line."
St. Louis Park	Hennepin		Bees are not addressed in city ordinance, so they are allowed as long as they are not a nuisance.
St. Paul	Ramsey	Chapter 198.02(d)	"No person shall keep or allow to be kept any hive or other facility for the housing of bees within the city without a permit."
St. Paul Park	Washington	Ordinance #694	Honey bees are allowed; must get a permit and obey set back ordinance.
Savage	Scott	Section 91.01(2)	Bees are classified as a farm animal. Under Section 91.04, farm animals are "allowed only as a legal non-conforming use where a similar use consistently thereafter."
Shakopee	Scott	Section 11.02(5)(B)	Bees are classified as an "agricultural use" and allowed in areas zoned rural residential or agricultural.
Shoreview	Ramsey	Section 601.020(E)	Bees are allowed with restrictions and permit required
Shorewood	Hennepin	Section 705.09	Bees are classified as an "urban farm animal." Section 705.09 subd 2(h) states, "The number of bee hives shall not exceed four."
South St. Paul	Dakota	Section 15-1(3)	Bees are listed as a farm animal. Section 15-3 states, "It shall be illegal for any person to own, possess, harbor, or offer for sale, any farm anir
Spring Park	Hennepin		Bees are not allowed in city limits.
Stillwater	Washington	Section 27-3	Bees are allowed in city limits as long as you have a permit. The ordinance sets forth a number of rules and regulations.
Sunfish Lake	Dakota	Section 1225.01	Bees are considered farm animals. Only the farm animals expressly listed (such as bees) are allowed in the City of Sunfish Lake as long as yo
Victoria	Carver	Chapter 30, Article VIII, Section 30-313(13)	Bees are only allowed in areas zoned agricultural and if you get a conditional use permit.
Virginia	St. Louis		Honey bees are defined as a farm animal. Farm animals are not allowed to be harbored within the city.
Waconia	Carver	Section 710.15 subd. 1	Bees are considered farm animals, so they are allowed in areas zoned agricultural.
Wayzata	Hennepin		No ordinance, so bees are allowed unless they are a nuisance.
West St. Paul	Dakota	Section 905.15 subd. 3	Bees are allowed. The only requirement is that the hives are at least 100 feet from neighboring houses. Some lots are too small to comply with
White Bear Lake	Ramsey and Washington	Section 702.045	Bee keeping is allowed in City limits as long as you have a license.
Woodbury	Washington	Section 24-4	Bees are considered "livestock" and they are allowed on property of five or more acres in areas zoned rural residential or existing farmstead.

CFANS
COLLEGE OF FOOD, AGRICULTURAL AND NATURAL RESOURCE SCIENCES

U of M Bee Research Facility
Department of Entomology
1634 Gortner Ave.
St. Paul, MN 55113

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Beekeeping in Brooklyn Park



What's all the buzz about?

Since 2015, properties in Brooklyn Park can keep honeybees with an approved registration.

Requirements

- The number of hives allowed is based on the size of the property; a typical residential lot is allowed 2 hives.
- Any hive on the property must be setback at least 10 feet from the property line.
- If a hive is located closer than 25 feet to the property line, a flyway barrier is required.
- The beekeeper applying for the registration must have attended a beekeeping class from an accredited Minnesota institution.

Public notification

The City will notify all residents living within 200 feet of the property line of a proposed apiary (beekeeping) site when an application is received.

All apiary locations will be shown on a public information map.

Registration period

Registrations are valid from April 1 through the following March 31 and must be renewed each year.

Apply for an apiary registration

Submit a completed registration form with the following:

- The owner and beekeepers information
- A sketch of the property showing the location of the hives, water source, setbacks and flyway barrier (if required)
- A copy of the certificate of completion of a beekeeping course
- A one-time registration fee of $75.00

Michelle Peterson
Neighborhood Health Specialist
763-493-8116
Michelle.Peterson@brooklynpark.org

City of Brooklyn Park
City Hall
5200 85th Ave. N.
Brooklyn Park, MN 55443

www.brooklynpark.org/codeenforcement

Brooklyn Park
Unique. United. Undiscovered.

Date Application Received at City: _____

City of Brooklyn Park

Community Development Department / Code Enforcement & Public Health Division
5200 85th Avenue North / Brooklyn Park, MN 55443 / Phone: 763 493 8070 / Fax 763 493 8391

Application for Apiary Registration

www.brooklynpark.org

GOVERNMENT DATA PRACTICES ACT - TENNESSON WARNING:
The data you supply on this form will be used to process the registration you are applying for. You are not legally required to provide this data, but we will not be able to process the registration without it. The data will constitute a public record if and when the registration is granted.

The following information is required. All applications are subject to a 21-day approval period.

Registration Period: April 1st –March 31st
Completed Application / Beekeeping Course Certificate
Registration Fee: $75 (Initial Registration Only)

The undersigned hereby makes application to the City of Brooklyn Park, Hennepin County, Minnesota, for registration subject to the laws of the State of Minnesota and of the City of Brooklyn Park.

Apiary Address:_____
Property Owner:_____
Owner Mailing Address:_____
Owner Email Address:_____ Owner Phone Number_____
Is the apiary address located within the boundaries of a Homeowner's Association? : ☐ Yes ☐ No
If yes, is beekeeping allowed by the Homeowner's Association? : ☐ Yes ☐ No
Are there any bylaws, covenants, conditions or restrictions attached to your property which do not allow beekeeping to occur on the property? : ☐ Yes ☐ No

Beekeeper's Information
Beekeeper's Name (If different from above):_____
Contact Phone #:_____
Emergency Contact: _____Emergency Phone #:_____

I have completed a beekeeping course from an accredited MN Institution: ☐ Yes ☐ No
Name of Minnesota Accredited Institution that provided certificate:_____
Please attach copy of certificate to registration form.

Please check each box and then sign and date indicating that you have read and agree with the following:

☐ I have received, read and understand city code Chapter 92 (the Beekeeping ordinance) and will comply with all requirements of this ordinance.

☐ I understand the City of Brooklyn Park will notify all residents within 200 feet of the property line of my apiary site and if a written objection is received within fourteen days of notification my application may be denied. (Chapter 92.56)

☐ I understand my apiary will be subject to an inspection upon initial registration, annually for renewal, with any update to my registration and if a complaint is received. (Chapter 92.57)

☐ I understand and agree that I may not engage in the practice of beekeeping within the City of Brooklyn Park until I have received notification that my apiary registration has been approved.

☐ I understand that my apiary location is public-information and that a map showing all apiary locations is available to the public.

Applicant's Signature: _____ ***Date:*** _____

CITY USE ONLY - Approvals:
Date Neighbor Notification Sent:_____ Objections Received: ☐ Yes ☐ No
Site Inspection Date: _____ ☐ Passed ☐ Failed

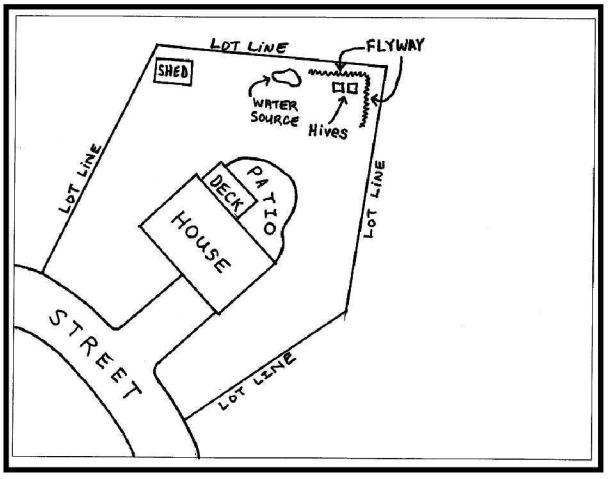
APPROVED: ☐ YES ☐ NO
Approved by: _____ **Date Approved** _____
Maximum Number of Colonies/Hives Allowed:_____

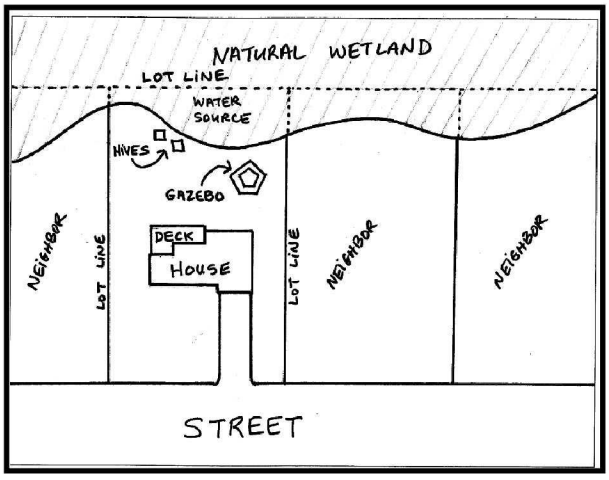
Brooklyn Park Application for Apiary Registration

Property & Apiary Diagram

Please supply a scaled sketch of your property and apiary. The sketch must include the location of your house, accessory structures, your lot lines, all honeybee colonies, the required water source and the location of any required flyway barriers along. Please state how many feet each item is setback from the property's lot lines.

Examples





For Office Use Only

Zoning District:_____ **Hives permitted:**_____

Lot Size:_____ _____ **Acreage:**_____

Flyway Required ☐ **Yes** ☐ **No**

Inspector Assigned:_____

BEEKEEPING

§92.50 DEFINITIONS

ACCREDITED INSTITUTION. An educational institution holding accredited status which has been licensed or registered by the Minnesota Office of Higher Education at the time the registrant obtained their certificate.

APIARY. The assembly of one or more colonies of bees on a single lot.

APIARY SITE. The lot upon which an apiary is located.

BEEKEEPER. A person who owns or has charge of one or more colonies of honeybees or a person who owns or controls a lot on which a colony is located whether or not the person is intentionally keeping honeybees.

BEEKEEPING EQUIPMENT. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY. An aggregate of honey bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs and honey.

FLYWAY BARRIER. A barrier that raises the flight path of bees as they come and go from a hive.

HIVE. The receptacle inhabited by a colony.

HONEY BEE. All life stages of the common domestic honey bee, *apis mellifera*. This definition does not include wasps, hornets, African subspecies or Africanized hybrids.

NUCLEUS COLONY. A small quantity of honey bees with a queen housed in a smaller than usual hive box designed for a particular purpose, and containing no supers.

REGISTRANT. Any registered beekeeper and any person who has applied for approval of a beekeeping registration.

ROOFTOP. The uppermost section of a primary or accessory structure of at least one full story and at least twelve feet in height. Areas including but not limited to decks, patios and balconies shall not be considered a rooftop.

SUPER. A box that holds the frames where bees will store the honey.

SWARMING. The process where a queen bee leaves a colony with a large group of worker bees in order to form a new honey bee colony.

UNUSUAL AGGRESSIVE BEHAVIOR. Any instance in which unusual aggressive characteristics such as stinging or attacking without provocation occurs. Provocation is an act that an adult could reasonably expect may cause a bee to sting or attack.

§ 92.51 PURPOSE

Honey bees are an asset to the community and important in the pollination of plants and in the production of honey and other products. The purpose and intent of this portion of Chapter 92 is to permit and establish requirements for the keeping of honey bee colonies, hives, and equipment within the City.

§ 92.52 BEEKEEPING LIMITED

No person shall keep, harbor, maintain or allow to be kept any hive or other facility for the housing of honeybees on or in any property in the City without an approved registration unless otherwise exempted by Sections 92.54 A(5) and 92.56 (B).

§ 92.53 COLONY LOCATION

(A) Hives cannot be located in the front yard and must be located a minimum of ten (10) feet from the rear or side property lines and 20 feet from public rights-of way unless further restricted elsewhere in this Code. A corner lot shall be considered to have two front yards.

(B) Hives must be located a minimum of ten feet from any adjacent dwelling unit.

(C) Except as otherwise provided in this Section, in each instance where any part of a hive is kept within twenty-five feet of a lot line of the apiary site, a flyway barrier of at least six feet in height must be constructed.

(1) The flyway barrier must consist of a wall, fence, or dense vegetation that requires honey bees to fly over, rather than through, the barrier.

(2) If a dense vegetation flyway barrier is used, the initial planting may be a minimum of four feet in height, but the vegetation must reach a height of at least six feet within two years after installation.

(3) If a wall or fence flyway barrier is used, the materials must be decay resistant, maintained in good condition and constructed in accordance with Sections 152.291-152.293 of this code.

(4) The flyway barrier must continue parallel to the lot line of the apiary site for at least ten feet in both directions from the hive or must contain the hive or hives in an enclosure at least six feet in height.

(5) A flyway barrier is not required if the hive is located on a rooftop.

92.54 COLONY DENSITY

(A) Every lot or parcel of land in the City shall be limited to the following number of colonies based on the size of the apiary lot:

(1) One half acre or smaller is allowed two colonies

(2) More than one half acre to three quarters of an acre is allowed four colonies

(3) More than three quarter of an acre to one acre is allowed six colonies

(4) More than one acre to five acres is allowed eight colonies

(5) More than five acres, there is no restriction on the number of colonies and no registration is required.

(B) If any beekeeper serves the community by removing a swarm or swarms of honeybees from locations where they are not desired, that person shall not be considered in violation of the colony density restrictions in this section if the following conditions are met:

(1) The person temporarily houses the honeybees at an apiary site of a beekeeper registered with the City,

(2) The bees are not kept for more than thirty days, and

(3) The site remains in compliance with the other provisions of this section.

§ 92.55 REQUIRED CONDITIONS

(A) Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and useable condition.

(B) Each colony on the apiary site shall be provided with a convenient source of water which must be located within ten feet of each active colony.

(C) Materials from a hive such as wax combs or other materials that might encourage robbing by other bees shall be promptly disposed of in a sealed container or placed within a building or other bee and vermin proof enclosure.

(D) For each colony permitted to be maintained, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard nine and five-eights (9-5/8) inch depth box, ten frame hive body with no supers.

(E) Beekeeping equipment must be maintained in good condition, including keeping the hives free of chipped and peeling paint if painted, and any unused equipment must be stored in an enclosed structure.

(F) Hives shall be continuously managed to provide adequate living space for their re honeybees in order to prevent swarming.

(G) In any instance in which a colony exhibits unusual aggressive behavior, it shall be the duty of the beekeeper to promptly re-queen the colony.

(H) Honey may not be sold from any residential property unless a home occupation permit has been obtained and required conditions met in accordance with City Code 152.262(B).

§ 92.56 REGISTRATION REQUIRED

(A) The application for registration must be upon a form provided by the City. All required information must be complete.

(B) Each apiary site must apply for registration and receive approval prior to bringing any honeybees into the City. Registration is not required for sites over 5 acres in size.

(C) If the beekeeper relocates a hive or colony to a new apiary site, the beekeeper shall apply for an updated registration, prior to the relocation, on the form provided by the City.

(D) The beekeeping registration shall be valid until March 31 of each calendar year following initial issuance and must be renewed by the registrant prior to expiration each year by submitting a renewal form to the Community Development Department on the form provided by the City.

(E) Upon receipt of an application for initial registration, the City will send written notice to all owners of properties located within 200 feet of the property line of the apiary site(s) identified on the application. Any objections to the registration must be made in writing and received within fourteen (14) days of mailing the notice. If any written objection is received, the registration application must be referred to the City Manager.

(1) The registration application must be denied if the City receives a written objection from a resident living within the designated notification area that includes medical documentation by a licensed physician of an allergy to honeybee venom.

(F) Beekeeping training and education is required for the beekeeper prior to the issuance of the initial beekeeping permit by the City. At the time of application for registration, the beekeeper must submit a certificate of completion of a honeybee keeping course from an accredited Minnesota institution.

(G) The fees for the registration will be determined by the City Council in the City's fee schedule.

(H) The property must be in compliance with all other applicable City regulations in order to receive approval and renewal.

(I) If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the City Manager.

(J) Beekeepers operating in the City prior to the effective date of the Section will have until July 1, 2015 to apply for registration.

§ 92.57 INSPECTION

(A) Upon initial registration, annual renewal or any updated registration, each beekeeper must allow for an inspection of the site.

(B) Upon prior notice to the owner of the apiary site, City staff shall have the right to inspect any apiary.

(C) In the case of a complaint regarding the apiary, the apiary site may be inspected without prior notice.

§ 92.58 APPEAL AND HEARING PROCEDURE

(A) Registrations issued under this Section may be denied, revoked or non-renewed due to any of the following:

(1) The keeping of honeybees in a manner which constitutes a nuisance to the health, safety or general welfare of the public;

(2) Fraud, misrepresentation, or a false statement contained in the registration application or during the course of the registered activity;

(3) Any violation of the applicable provisions in this Chapter.

(B) Notice of approval, denial, revocation or non-renewal must be made in writing to the registrant and to any person opposing the application for initial registration specifying the reason(s) for the action. The registrant or any person opposing the application may request a hearing within fourteen (14) days of the date of the notification letter.

(C) A hearing officer shall hold a hearing on a contested approval, denial, revocation, or non-renewal. The hearing officer shall be a person appointed by the City. At the hearing, the applicant and any person objecting to the application for initial registration may speak and may present witnesses and other evidence. Upon the conclusion of the hearing, the hearing officer shall issue a written decision that includes findings of fact. The city shall provide the registrant and any objecting party with a copy of the hearing officer's decision. The registrant may appeal the hearing officer's decision in accordance with state law.

Homegrown Minneapolis

Minneapolis Beekeeping Rules and Regulations

This web page summarizes city policy related to beekeeping. The complete list of rules and regulations is located in the Minneapolis Code of Ordinances (Title 4, Chapter 63, Section 63.100). Before applying for a permit, you are advised to read the full ordinance language.

What are the application requirements?

Take a Class: Provide a certificate of completion of a honeybee keeping course from one of the following:

- University of Minnesota
- Century College
- Three Rivers Park District

Provide Details: Specify the location and number of hives, colonies and/or facilities where honeybees will be kept. Minneapolis Animal Care and Control (MACC) is required to inspect the location.

Notify Neighbors: Show proof that you have notified all your immediate neighbors that you plan to keep bees on your property. Your notification method must be approved by MACC. If you are a renter, you will also need approval from your property owner.

Pay a Fee: The beekeeping permit application fee is $100 and annual renewals are free. All permits expire on January 31st of each year.

What are the rules?

- Make sure to provide a water source while the colony is active outside the hive.
- Maintain beekeeping equipment – keep hives painted and secure unused equipment from weather, potential theft, or occupancy by swarms.
- Notify MACC immediately if you are no longer able or willing to maintain your beehives. MACC will make the hives available to an approved honeybee rescue entity or dispose of them if necessary. There is a fifty dollar ($50.00) hive disposal fee.
- Colonies must be located at least 20 feet away from neighbors' homes.
- The apiary property must be enclosed by a latching fence.
- If a colony is less than 25 feet from your property line, a flyway barrier (wall, fence, dense vegetation, or combination) must be installed. The flyway barrier must be at least six feet tall and must continue 10 feet along the lot line in each direction from the hive.
- All other sides of the area around the colonies shall have a barrier (wall, fencing, dense vegetation, or a combination) at least four feet tall.
- No barrier is required if adjoining property is undeveloped, zoned for agriculture/industry, or is a wildlife management area with no horse and foot trails within 25 feet of the apiary lot line. No barrier is needed on rooftop hives if they are at least 5 feet from the side of the structure and at least 15 feet from adjacent occupied structures.

For further information or to apply for a permit, please visit the Animal Care and Control permits page or contact Teila Zoller at Minneapolis Animal Care and Control:
Phone: 612-673-6246
Email: teila.zoller@minneapolismn.gov

Visit our Keeping Bees page to access additional resources and learn more about ways the City of Minneapolis supports beekeeping.

Sign up for e-mail updates from Homegrown Minneapolis.

Upcoming Homegrown Meetings

Wednesday, October 10, 2018
5:30-7:30 pm Food Council meeting
5:00-5:30 pm SPARK-Y presentation
SPARK-Y
Casket Arts Building, Room 101
681 17th Ave NE, Minneapolis
Meeting Agenda
2018 Meeting Schedule

Homegrown Highlights

Apply for the Food Council
Farmers Markets
Homegrown Newsletter
2017 Homegrown Highlights
Food Council Members
Homegrown Heroes

Contact

Tamara Downs Schwei
Homegrown Minneapolis/
Local Food Policy Coordinator
(612) 673-3553 | email

Last updated Dec 14, 2017

MINUTES OF THE PROCEEDINGS OF THE HOUSING COMMISSION OF THE
CITY OF BROOKLYN CENTER IN THE
COUNTY OF HENNEPIN AND STATE OF MINNESOTA

REGULAR SESSION
November 20, 2018
COUNCIL COMMISSION ROOM

CALL TO ORDER

The Brooklyn Center Housing Commission was called to order by Chairperson Goodell at 7:00 p.m.

ROLL CALL

Chairperson – Mark Goodell - Present
David Johnson - Present
Tamika Baskin – Present
Kathie Amdahl - Present
Joan Schonning – Present
Michael Stokes – Present
Paul Oman - Present

Also present was Staff Liaison Jesse Anderson and Council Liaison Marquita Butler.
Sara Capers, Brooklyn Center Resident
Gary Reuter, University of Minnesota Bee Lab

APPROVAL OF AGENDA

There was a motion by Commissioner Johnson and seconded by Commissioner Amdahl to approve the agenda as submitted. The motion passed.

APPROVAL OF MINUTES

There was a motion by Commissioner Schonning and seconded by Commissioner Baskin to approve the minutes of the Housing Commission meeting on October 16, 2018 as amended. The motion passed**.**

BEE KEEPING DRAFT ORDINANCE

Staff Liaison Anderson provided an overview.

Commissioner Baskin: I would support a license for bees. Do any cities have density requirements?

Staff Liaison Anderson: Yes, some cities have lot size requirement. However, no cities have restriction on how many properties can have bees in an area.

Commissioner Stokes: Are bees territorial?

Mr. Reuter: They are not territorial, but in most cities there are a small number of people that have a colony.

Commissioner Johnson: Is there training for bee keeping?

Mr. Reuter: Yes, it is a 2 day class.

Commissioner Johnson: Are honey bees being lost in large numbers?

Mr. Reuter: There has been a 45% loss.

Commissioner Johnson: Will allowing more hives have an impact?

Mr. Reuter: Hobby bee keeping wouldn't necessarily improve numbers overall, but would see advantages in pollination for the neighborhood. Another benefit would be by spreading out bees it may help decrease the likely hood of bees being wiped out.

Commissioner Baskin: What is the process to get a license and a certificate?

Mr. Reuter: The licenses are to make sure they are meeting the requirements and the education is important because bee keeping isn't easy. There is work and care needed. There could be an impact if not properly handled. There are other classes out there as well.

Ms. Capers: Multiple places offer classes with a similar message. What are the concerns and why does the Commission want a license since chickens, cats and dogs are not licensed?

Commissioner Baskins: What is the impact to neighbors if they are not being cared for?

Mr. Reuter: They could get a mean colony and it would have to be re-queened. If they are more than 10 feet from the property line a neighbor wouldn't really notice that there are bees.

Commissioner Johnson: Who would do the inspection and are staff qualified?

Staff Liaison Anderson: We would need training, but it wouldn't be too much work.

Commissioner Goodell: There are concerns about bee allergies.

Mr. Reuter: This issue has come up, I have had bees and my wife, who has allergies, has never been stung. If my neighbor was allergic, I maybe wouldn't keep bees. Some cities say that if it is verified they could deny. About 1-2% of people are allergic.

Ms. Capers: There is a lot of misinformation or perceived information about city regulation. There was misinformation that the city was allowing bees. Many of her neighbors have bees. It is important that the ordinance doesn't create an added fear. For the most, honey bees are a docile, nurturing species.

Commissioner Baskin: 14 days. What if they can't get documentation of allergies within 14 days.

Staff Liaison Anderson: The city would give time to provide documentation.

Ms. Capers: I have 2 hives and they typically fly up.

Commissioner Johnson: Would a curious child be an issue?

Ms. Capers: It could be.

Commissioner Johnson: Would they swarm?

Ms. Capers and Mr. Reuter: No.

Mr. Reuter: If the hive is tipped over they may sting a few times.

Ms. Capers: A bee can't sting like a wasp. It is difficult for them to sting.

Commissioner Baskin: We would have licenses to be transparent and the neighbors have a right to know. It is important to notify neighbors.

Mr. Reuters: The education requirement can be an opportunity for education.

Commissioner Johnson: If the council passes and it is in paper, how many people will go do it?

Ms. Capers: Not too many because it is expensive, starting out can cost $1,000.

Commissioner Schonning: This is an investment.

Ms. Capers: It is an expensive and time consuming hobby; there would be less people who are interested.

Commissioner Johnson: What happens if the bees aren't cared for?

Ms. Capers: The bees could die off.

Commissioner Johnson: How much time is needed?

Mr. Reuters: Need to check on them at least every 10 days. It is a considerable commitment. If not taken care of, in the first year they will die. U of M wants to get them to survive on own.

Commissioner Johnson: How do they survive the winter?

Mr. Reuter: Can survive any kind of winter with some loss.

Commissioner Schonning: Training would help the bee keeper prevent mites or diseases that could affect them.

Commissioner Johnson: Are there different breeds?

Mr. Reuters: There are two types that are popular in this area. They are much like a dog breed. Either one does well in this area with their own differences. You wouldn't have a heard of killer bees, they are not here and it is thought they can't survive here.

Chairperson Goodell: Any other questions?

Commissioner Johnson: Would you be ok with a site visit? It might be interesting.

Ms. Capers: Yes.

Ms. Capers: A few things that don't make sense. Why would you require mapping of the hive location? What would happen if you move them?

Chairperson Goodell: Is the purpose to check the site for proper location?

Ms. Capers: Are you going to replicate Brooklyn Park's program?

Chairperson Goodell: We are using theirs as a template just to start the process.

Ms. Capers: Why are we considering licenses?

Commissioner Oman: The site plan would help to prevent them from putting it in the wrong place.

Commissioner Baskin: What would happen with a neighbor complaint?

Commissioner Johnson: We would recommend a permit rather than a license.

Ms. Caper: It went to council because a person was told to remove their hive. It is not in the ordinance. I reached out to the Council and some friends. Four people were told they can have it.

Commissioner Johnson: Do bees attract other animals?

Ms. Capers: Possibly mice, but there are devices that can keep them out.

Chairperson Goodell: Fees? Brooklyn Park charges a $75 reservation. Would there be a cost to renew?

Commissioner Baskin: It could impact neighbors and there should be some procedure to review. Every 2-3 years.

Staff Liaison Anderson: Closest is a rental license.

Commissioner Schonning: I am in favor of the training. Would like to have an only one-time fee, but still renew.

Commissioner Amdahl: Would it be a one-time fee.

Commissioner Oman: Inform new neighbors. What if they move, can they find out first?

Commissioner Amdahl: If they are registered, they could.

Commissioners Baskin, Stokes and Amdahl: Are in support of renewals without annual fees.

Chairperson Goodell: I could go either way with renewals. You previously had to get a fire permit and get permission for each fire.

Commissioner Baskin: Bees are less common than fires. There will be some concerns overall people are not as concerned.

Chairperson Goodell: Add registration and education; try to not have too many hoops. There is busy work from the city for renewal. Could see some value in keeping it similar to chickens.

Commissioner Schonning: Annual renewal is a way to take responsibility for the bee hive.

Commissioner Johnson: City is aware when there is a registration, and can explain that it is permitted.

Commissioner Goodell: What are next steps? As it is almost 8. Should we summarize recommendations?

The commission agreed that no site plan should be required. They should renew every 2 years and not be required to pay for renewals. Also, an inspection should only be required for the initial license.

Commissioner Amdahl: Complaints should result in an inspection.

Commissioner Schonning: It would help the neighbors to know that the city has inspected it.

Commissioner Schonning: Recommend going to council after attorney reviews ordinance.

Commissioner Amdahl and Commissioner and Schonning: Moves to recommend bringing ordinance to council after reviewed by city attorney. Motion carries.

There was a motion by Commissioner Amdahl and seconded by Commissioner Schonning to approve a recommendation that an ordinance to allow for bee keeping be modified with the Housing Commissions comments, reviewed by the City Attorney, then brought to City Council for approval. The motion passed with a unanimous vote.

***TENANT PROTECTION*:**

Staff Liaison Anderson provided a summary of the tenant protection ordinance.

Council Liaison Butler: Why won't Earle Brown Terrace been affected by this ordinance.

Staff Liaison Anderson: The property was sold as vacant. The tenants that were asked to move were asked to move out by the original owns and the property was sold as vacant.

Mr. Hamza: The lease can be modified after the 90 days.

Chairperson Goodell: All focused on change of ownership. When a person purchases a property they have to give a 90 day notice.

Mr. Hamza: This helps people who have a month to month lease stay in the property.

Chairperson Goodell: If a landlord comes in and wants to change application requirements with higher standers they would have to wait the 90 day period.

Staff Liaison Anderson: Other cities have only experienced requiring the 90 days. No city has experienced a tenant receiving relocation benefits or not complying with the 90 day notice.

Mr. Hamza: The landlord can make the decision to pay relocation or give the 90 days.

Commissioner Amdahl: What happens if there are shorter months with the requirement in 36a.

Staff Liaison Anderson: I will have the attorney review that section for clarification.

Commissioner Amdahl: The word provide needs a D added to be provided.

Commissioner Oman: Should require notice if changes are accruing within 30 days after the 90 day tenant protection period. Also, the city should provide the translation.

Chairperson Goodell: I like the change to 80% that was recommended by Homeline.

Commissioner Oman: Page 4 c. Affidavit. How do they provide the notice? Change requirement to not require city notice at the same time. Same day it too restrictive and wouldn't allow them to notify the tenants by hand delivery and then mail the notice to the city.

Staff Liaison Anderson: **N**ext steps, have attorney make updates, send to Homeline.

Chairperson Goodell: Entertain a motion.

Commissioner Amdahl: Housing Commission recommends that the council approve the ordinance with modification. 2nd by Commissioner Baskin. Unanimous vote.

There was a motion by Commissioner Amdahl and seconded by Commissioner Baskin to approve the motion recommending the Council adopt the Tenant Protection Ordinance with the recommended changes. The motion passed with a unanimous vote.

COUNCIL LIAISON REPORT

Butler:

New banners are being installed in phases with a focus on hope, children, seniors, and

multiple people on banners.
There is a new snow emergency parking ordinance. Signs with flags and announced at meetings.
T21 was passed last week.
Eastbrook estates development in the area of 252 and 69th Avenue area was reviewed with 3 proposed developers. The council selected Centra homes. 35 3-4 bedrooms homes depending on market. The plan to start with 3 bedrooms and will be custom built. The thought was there is a need for step up housing in Brooklyn Center. Starting around $332,000.
The Chicken ordinance passed.
Minnesota housing finance agency approved a matching funds for the low interest fix up funds. The city is offering a home buyer workshop for free. It will be a 90 minute workshop.
Lux apartment renovation is underway, 91 units and they have had a lot of interest.
HOM Furniture will open mid-December.
Bank of America opening up in late November.
The city has tried to convince Target to stay; jobs are the biggest loss.

CHAIRPERSONS REPORT

Chairperson Goodell reported: Thanks everyone for attending.

OTHER BUSINESS

Chairperson Goodell: Should we meet in December?
All commissioners agreed to cancel December meeting.

ADJOURNMENT

There was a motion by Commissioner Amdahl and seconded by Commissioner Baskins to adjourn the meeting. The motion passed. The Brooklyn Center Housing Commission adjourned at 8:35 p.m.

_____
Chairman

Bee Keeping Ordinance – First Reading

City Council Meeting, January 14, 2019
Meg Beekman, Community Development Director

Background

- May 2018 – Community Development presented the issue of Bee Keeping to City Council
  - City Code silent on keeping of bees
- October 2018 – City Council discussed regulations for bee keeping
  - City Code interpreted to prohibit bee keeping
  - City Council directs Staff to proceed with drafting an ordinance
  - Directs the Housing Commission to review and provide a recommendation
- October and November 2018 – Housing Commission discusses ordinance, reviews draft

2

Bee Keeping Ordinance Overview

- Up to 4 hives in a R1 or R2 (residential) zoning district
- 2-year registration required
  - Inspection required with new registration
  - Certification/training required
  - Notice sent to properties within 200 feet
  - A registration can be denied with a documented bee allergy
  - Registration denials can be appealed to a hearing officer, then City Council

3

Bee Keeping Ordinance Overview

- Colony Location
  - Rear yard
  - Minimum of 30 feet from adjacent dwellings or a fly away barrier is required
  - 5 feet from side or rear lot lines
- Water source required
- Bee keeping equipment shall be properly maintained
- Equipment shall be removed if bee keeping is discontinued for more then 6 month.
- No fee or inspection with registration renewal

4

Budget Issues

- Additional staff time required to administer the registration application process
- It is not anticipated that extra staffing will be needed

5

Next Steps

- A resolution adopting the registration fee will go with the 2nd reading
- If approved, a public hearing and second reading will be scheduled for February 11, 2019

6

Recommended Action

- Motion to approve the first reading of an Ordinance Amending Chapter 1 and 35 of the City Code of Ordinances regarding bee keeping and calling for a public hearing and second reading to be held on February 11, 2019

Economic Development Authority
Council Chambers City Hall
January 14, 2019

AGENDA

1. Call to Order

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet, including EDA (Economic Development Authority), is available to the public. The packet ring binder is located at the podium.

2. Roll Call

3. Approval of Consent Agenda

The following items are considered to be routine by the Economic Development Authority (EDA) and will been acted by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event the item will be removed from the consent agenda and considered at the end of Commission Consideration Items.

a. Approval of Minutes

- Motion to approve minutes from the December 10, 2018 meeting

4. Commission Consideration Items

a. Resolution Electing Officers for the Economic Development Authority in and for the City of Brooklyn Center

- Approve Resolution Electing Officers for the Economic Development Authority in and for the City of Brooklyn Center

b. Resolution Opting not to Waive Limited Tort Liability for 2019

- Motion to approve resolution opting not to waive limited tort liability for 2019

5. Adjournment

EDA ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Dr. Reggie Edwards, Deputy City Manager

FROM: Barb Suciu, City Clerk

SUBJECT: Approval of Minutes

Background:

Strategic Priorities and Values:

Operational Excellence

MINUTES OF THE PROCEEDINGS OF THE
ECONOMIC DEVELOPMENT AUTHORITY
OF THE CITY OF BROOKLYN CENTER
IN THE COUNTY OF HENNEPIN AND
THE STATE OF MINNESOTA

REGULAR SESSION
DECEMBER 10, 2018
CITY HALL – COUNCIL CHAMBERS

1. CALL TO ORDER

The Brooklyn Center Economic Development Authority (EDA) met in Regular Session called to order by President Tim Willson at 9:58 p.m.

2. ROLL CALL

President Tim Willson and Commissioners Marquita Butler, April Graves, and Dan Ryan. Commissioner Kris Lawrence-Anderson was absent and excused. Also present were Executive Director Curt Boganey, Deputy Executive Director Reggie Edwards, Community Development Director Meg Beekman, City Attorney Troy Gilchrist, and Mary Mullen, TimeSaver Off Site Secretarial, Inc.

3. APPROVAL OF CONSENT AGENDA

Commissioner Ryan moved and Commissioner Butler seconded to approve the Consent Agenda, and the following consent item was approved:

3a. APPROVAL OF MINUTES

1. December 3, 2018 – Special Meeting

Motion passed unanimously.

4. COMMISSION CONSIDERATION ITEMS

4a. RESOLUTION APPROVING A PRELIMINARY DEVELOPMENT AGREEMENT WITH THOR LIVING

In consideration of audience members in attendance, the agenda was reordered and Item 4b was considered prior to Item 4a.

4b. RESOLUTION NO. 2018-18 APPROVING A PRELIMINARY DEVELOPMENT AGREEMENT WITH CENTRA HOMES, LLC

Community Development Director Meg Beekman introduced this item. She stated Centra Homes LLC is seeking a Preliminary Development Agreement for 35 single-family homes. She added the subdivision was returned to the Economic Development Authority (EDA). She noted two adjacent properties are proposed for partial acquisition as part of this project, and no contribution is required from the City or EDA.

Ms. Beekman showed examples of Centra model homes in other developments. She added the models that will be available in Brooklyn Center have not been identified.

Ms. Beekman stated City Staff recommends approval of the Preliminary Development Agreement with Centra Homes LLC.

Commissioner Ryan asked whether a PUD will be required due to smaller lot sizes. Ms. Beekman stated a PUD might be necessary but City Staff will find the easiest and best route to move forward with the subdivision.

Ms. Beekman introduced Tate Baxter, Centra Land Team, and Dale Wills, Owner and President of Centra Homes.

President Willson commend the Centra team for pursuing this property for their development. He added there have been many interested developers and potential projects, but the Centra proposal will utilize the property in the most fitting and appropriate fashion.

Commissioner Butler moved and Commissioner Ryan seconded to adopt RESOLUTION NO. 2018-18 Approving Preliminary Development Agreement with Centra Homes, LLC.

Motion passed unanimously.

4a. RESOLUTION NO. 2018-17 APPROVING A PRELIMINARY DEVELOPMENT AGREEMENT WITH THOR LIVING – continued

Ms. Beekman introduced this item. She added THOR Living, LLC, is seeking a Preliminary Development Agreement (PDA) for a proposed four-story, 80-110-unit multi-family development that will be affordable to residents at 60-80% of the Area Median Income (AMI). The developer intends to purchase the land from the EDA, and TIF funding is being requested for a funding gap of approximately $2.6 million.

President Willson asked whether City Staff are aware of any environmental issues, as the demolition estimate seems high. Ms. Beekman stated the estimate includes the demolition of a home, and while the estimate may seem high, no soil borings have been completed. She noted the Sanctuary development did not have soil issues.

President Willson asked whether there is a timeline for the development. Ms. Beekman stated the PDA will expire July 30, 2019, and no milestones have been established. She added financing is the biggest component at this point.

President Willson asked whether ownership of the property will be retained by the EDA until all issues are resolved. Executive Director Boganey confirmed this. He added, due to the public subsidy component, a formal application and review by the City and EDA will be required.

Ms. Beekman stated City Staff recommends approval of the request for a Preliminary Development Agreement with Thor Living, LLC.

Commissioner Ryan moved and Commissioner Butler seconded to adopt RESOLUTION NO. 2018-17 APPROVING A PRELIMINARY DEVELOPMENT AGREEMENT WITH THOR LIVING, LLC.

Motion passed unanimously.

5. ADJOURNMENT

Commissioner Ryan moved and Commissioner Butler seconded adjournment of the City Council/Economic Development Authority Work Session at 10:30 p.m.

Motion passed unanimously.

EDA ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Reggie Edwards, Deputy City Clerk

FROM: Barb Suciu, City Clerk

SUBJECT: Resolution Electing Officers for the Economic Development Authority in and for the City of Brooklyn Center

Background:

Minnesota Statute 469-096 provides that n Economic Development Authority shall elect a president, treasurer, and secretary on an annual basis. EDA Resolution No. 87-06 also states in Article II, Section 7, that the president, vice-president, secretary, treasurer, and assistant treasurer shall be elected at the annual meeting of the Authority and shall hold office for one year or until successors are elected and qualified.

The attached resolution elects such positions for the Economic Development Authority.

Budget Issues:

There are no budget issues to consider.

Commissioner introduced the following resolution and moved its adoption:

EDA RESOLUTION NO. _____

RESOLUTION ELECTING OFFICERS FOR THE ECONOMIC DEVELOPMENT AUTHORITY OF BROOKLYN CENTER, MINNESOTA

WHEREAS, *Minnesota Statutes* Section 469.096 provides that an economic development authority shall elect a president, treasurer, and secretary on an annual basis.

NOW, THEREFORE, BE IT RESOLVED by the Economic Development Authority of Brooklyn Center, Minnesota, that the Authority hereby elects the following officers to serve through December 31, 2019, or such later date as their successors are elected and qualified:

President/Treasurer	Mike Elliott
Vice-President	
Assistant Treasurer	Finance Director
Secretary	Community Development Director

January 14, 2019
Date

_____
President

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.

EDA ITEM MEMORANDUM

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: Resolution Opting not to Waive Limited Tort Liability for 2019

Background:

Each year the EDA must choose whether to waive tort liability limit protections of Minnesota Statutes 466.04 as part of the insurance policy renewal application process. M.S. 466.04 states that the maximum liability for a city for any claim is $500,000 with an aggregate maximum of $1,500,000 per incident. In past years the EDA has chosen not to waive the liability limits and the regular premium for insurance has covered all claims.

If the EDA were to waive the limits set by statute, it would be prudent to purchase additional insurance coverage to cover possible higher awards in liability claims. Premiums for such insurance would be approximately $3,500 per year.

Budget Issues:

The 2019 budget anticipates leaving the no waiver option in place for 2019 and has anticipated insurance premiums based on that no waiver option. Waiving the statutory limits would require that approximately $3,500 in additional premium costs be allocated for 2019 and in each succeeding year.

Strategic Priorities and Values:

Safe, Secure, Stable Community

Commissioner introduced the following resolution and moved its adoption:

EDA RESOLUTION NO._____

RESOLUTION OPTING NOT TO WAIVE LIMITED TORT LIABILITY FOR 2019

WHEREAS, the Economic Development Authority of the City of Brooklyn Center has an option to waive its protection under the tort liability limitations contained in Minnesota Statutes 466.04; and

WHEREAS, the statutory tort limit for 2019 is $500,000 per individual with an aggregate limit of $1,500,000 per incident; and

WHEREAS, the Economic Development Authority of the City of Brooklyn Center has not opted to waive its rights to limited tort liability in past years and is required to make a declaration of its intention every year.

NOW, THEREFORE, BE IT RESOLVED by the Economic Development Authority of the City of Brooklyn Center, Minnesota, that the Authority does not waive the monetary limits on municipal tort liability established by Minnesota Statutes 466.02 for 2019.

January 14, 2019
Date

_____
President

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.

LEAGUE OF MINNESOTA CITIES

CONNECTING & INNOVATING
SINCE 1913

LIABILITY COVERAGE – WAIVER FORM

Members who obtain liability coverage through the League of Minnesota Cities Insurance Trust (LMCIT) must complete and return this form to LMCIT before the member's effective date of coverage. Return completed form to your underwriter or email to pstech@lmc.org.

The decision to waive or not waive the statutory tort limits must be made annually by the member's governing body, in consultation with its attorney if necessary.

Members who obtain liability coverage from LMCIT must decide whether to waive the statutory tort liability limits to the extent of the coverage purchased. The decision has the following effects:

- *If the member does not waive the statutory tort limits*, an individual claimant could recover no more than $500,000 on any claim to which the statutory tort limits apply. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would be limited to $1,500,000. These statutory tort limits would apply regardless of whether the member purchases the optional LMCIT excess liability coverage.

- *If the member waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could recover up to $2,000,000 for a single occurrence (under the waive option, the tort cap liability limits are only waived to the extent of the member's liability coverage limits, and the LMCIT per occurrence limit is $2,000,000). The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to $2,000,000, regardless of the number of claimants.

- *If the member waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total all claimants could recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

LMCIT Member Name: _____

Check one:

☐ The member **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04.

☐ The member **WAIVES** the monetary limits on municipal tort liability established by Minn. Stat. § 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of member's governing body meeting: _____

Signature:_____Position:_____

145 UNIVERSITY AVE. WEST
ST. PAUL, MN 55103-2044

PHONE: (651) 281-1200 FAX: (651) 281-1299
TOLL FREE: (800) 925-1122 WEB: WWW.LMC.ORG

Council/EDA Work Session
City Hall Council Chambers
January 14, 2019

AGENDA

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

ACTIVE DISCUSSION ITEMS

1. Community Development Block Grant Funding Allocation Discussion
2. BC Liquor Store #1 Relocation
3. Council Retreat Discussion
4. State Legislative Priorities
5. Request to Provide a City Phone to the Mayor

PENDING LIST FOR FUTURE WORK SESSIONS

1. Pending Items
    - Cities United Membership
    - Livable Wages
    - Affordable Housing Recommendations
    - On-Street Parking Conditions
    - First Saturday Market discussion
    - Future Use of EDA Properties
    - Public Subsidy Policy discussion with Ehlers Consulting - 1/28, 2/25, 3/11

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: Meg Beekman, Community Development Director

FROM: Jesse Anderson, Deputy Director of Community Development

SUBJECT: Community Development Block Grant Funding Allocation Discussion

Recommendation:

- It is recommended that the City Council consider providing direction to staff regarding the Community Development Block Grant (CDBG) funding allocations.

Background:

City Staff is seeking direction from the City Council on the allocation of 2019-2020 Community Development Block Grants (CDBG) funds.
CDBG funds are provided by the U.S. Department of Housing and Urban Development (HUD) to help with community development activities that benefit low and moderate income persons. The funds are primarily intended for bricks and mortar improvements, as opposed to public service activities.

Hennepin County receives CDBG funds directly from HUD as part of a consolidated pool of funds, which is administered on behalf of participating suburban Hennepin County communities. Boomington, Eden Prairie, Minnetonka and Plymouth do not participate in the consolidated pool and receive CDBG funds directly from HUD. Brooklyn Center is considered a Direct Allocation City and is a sub-recipient of the funds through Hennepin County.

CDBG Statutory and Administrative Requirements
The Federal Authorizing Statute for the CDBG program requires that each funded CDBG activity meet one of three national objectives:

1. Benefiting low income persons
2. Preventing or eliminating slums and/or blight
3. Meeting urgent community needs.

The Federal Law also specifies that each recipient receiving funds must insure at least 70 percent of the CDBG expenditures during the program year be used for activities benefiting low and/or very low income persons. Each city must meet this requirement at the local level.

As part of the administration of the CDBG funds, Hennepin County adopts a 5-year funding plan, which further defines the goals of the program and clarifies what activities are eligible for funding. These include:

1. Preserving and creating multifamily rental housing
2. Preserving and creating single-family home ownership
3. (Public Service funds) Supporting agencies that provide public education and outreach services for job training, homelessness prevention, fair housing, financial literacy, emergency assistance, domestic abuse shelter and counseling, senior centers, senior services, at-risk youth counseling, youth activities and transportation services

4. Improved community facilities and infrastructure
5. Neighborhood revitalization

Because Hennepin County is responsible for the monitoring and reporting of the CDBG funds, the County oversees the use of funds within the consolidated pool. Cities that wish to diverge from the typical use of funds must seek permission from the County. One example of this is the City of Brooklyn Center's Code Enforcement Program, which is partially funded with CDBG dollars. In 2009, the City was experiencing unprecedented foreclosure rates and vacant properties, resulting in an increase in neighborhood blight. The City approached Hennepin County and worked with them to design a program which would address the issue while meeting the requirements for the use of CDBG.

Prior to 2018, cities were allowed to allocate up to 15 percent of their CDBG funding to public services. While Brooklyn Center regularly did so, other communities chose not to. In addition, the reporting requirements for the funds are onerous, and the County determined that it would be easier to pool the public service allocation and administer the distribution of those funds internally. Each city is now asked to send a representative to a committee, which reviews public service funding requests and makes a determination as a whole as to which public service organizations get funding and how much.

Previous CDBG Allocation

CDBG funding allocations run from July 1st-June 30th each year. The 2018-2019 CDBG funding round was allocated by the City Council in February 2018 and is set through June 30, 2019. The funding was allocated as follows:

2018 CDBG Amount	Allocation determination	Program
$150,000	$150,000	Code Enforcement and Neighborhood Revitalization
15%	15%	15% to public service funds required by Hennepin County
$86,300	Remaining	The remaining funds were allocated to the Hennepin County Home rehab program.

The use of the funds is limited and most cities utilize CDBG to fund their housing rehab programs. These are programs that provide deferred/forgivable loans to low income home owners to make needed repairs and maintenance to their homes. For communities with an aging housing stock, this is the only source of funds available to assist with the maintenance and upkeep of homes.

Brooklyn Center has allocated roughly $85,000 annually to a housing rehab program. The funds assist 5-6 households annually. There is currently a waiting list of 23 people waiting for when additional funds become available.

Brooklyn Center has allocated $150,000 of funds towards supporting the Code Enforcement and Neighborhood Revitalization Program since 2009. While these funds do not cover the full cost of the program, they supplement the City's use of General Fund dollars.

2019-2020 CDBG Allocation

We do not yet know the exact amount of CDBG allocation for the 2019-2020 cycle. Therefore, we have been advised by Hennepin County to use the estimate of $257,550 for the purposes of determining the allocation of funds. However, this allocation amount could be adjusted once HUD provides final amounts. Hennepin County receives the lump sum from HUD and determines the allocation among the participating cities based on a formula that takes into account population and need.

City	Public Services 15% Set-aside	Estimated 2019 Direct Allocation
Brooklyn Center	$45,450	*$257,550*
Brooklyn Park	$69,600	*$394,400*

Edina	$22,650	*$128,350*
Hopkins	$23,700	*$134,300*
Maple Grove	$28,500	*$161,500*
Minnetonka	$23,250	*$131,750*
New Hope	$16,350	*$92,650*
Richfield	$33,900	*$192,100*
St. Louis Park	$27,450	*$155,550*
	$290,850	***$1,648,150***

Funding Allocation Options

Code Enforcement and Neighborhood Revitalization - The City's foreclosure and vacant property rate continues to decline. The Code Enforcement Program has been a highly effective tool to ensure property maintenance and to fight neighborhood blight. The Vacant Building Program has been highly successful. Staff does not recommend reducing efforts towards code enforcement strategies. That being said, it may be appropriate to reallocate some CDBG funds back towards their core purpose, given the limited use of the funds; however, this would have a direct effect on the General Fund. Due to the split calendar of the funding cycle, the first half of 2019 has already been allocated. This means that any adjustment to the 2019-2020 CDBG allocation in relation to code enforcement would be split between two budget years.

Housing Rehab Program - As CDBG funds are the only source of funding to maintain the City's existing single family housing stock, one option would be to increase the allocation of CDBG funds to this use.

Down Payment Assistance - Richfield and Golden Valley are in the process of allocating a portion of CDBG funds towards a down payment assistance program to support low and moderate income families to purchase homes in the community. Brooklyn Center could consider a similar program and pair it with the newly offered home ownership classes.

Direct affordable apartment assistance - Brooklyn Park offers a program that supports existing naturally occurring affordable multi-family buildings with maintenance and rehab. One challenge with this program is that the cost of rehabilitation is generally quite high, which limits the use of the funds to one or two properties a year.

Scattered site acquisition/rehab - The scattered site acquisition is done in New Hope. It is similar to the City's previous buy and replace program. It allows for the purchase and renovation or demo of a blighted structure, which is then sold to a low/moderate income household. The individual cost per unit is high, minimizing the impact of this program.

Infrastructure improvements - These are physical improvements to community or public facilities that are utilized by low and moderate income residents. Some cities have use CDBG funds to purchase play ground equipment or make other physical improvements. One challenge with the use of CDBG funds in this manner is that it triggered Federal Fair Wage standards, which require a significant amount of reporting and paperwork, often making the small scale improvements more work than the value of the funding being used.

Attachments

- CDBG Funding History
- Housing Rehab Program Information
- Code Enforcement Focus Areas
- Richfield's Home Buyer Program Information

Policy Issues:

The 2019 CDBG funding year is from July 1, 2019 to June 30, 2020. The approved 2019 budget includes $150,000 grant funds for Code Enforcement. Of that, $75,000 is allocated from 2018 CDBG funds and the other $75,000 was anticipated to be funded by 2019 CDBG funds. Therefore, the 2019 funding would require a minimum of $75,00 allocated to Code Enforcement Activities.

Does the city Council want to continue with the same funding as previous year?

Are there any other programs or areas that city staff should research?

Does the City Council want staff to move forward with one or more of the options provided in the memo?

Strategic Priorities and Values:

Safe, Secure, Stable Community

Funding Year	Initial Budget	Adjusted	H.O.M.E./ SCS	CEAP	Home Line	Avenues for Homeless Youth	Timber bay	Neighborhood Stabilization/ Code Enforcement Initiatives	Hennepin County Rehab Funds	Shingle Creek Towers
2018*	$236,300	$236,300	*	*	*	*		$150,000	$86,300	
2017	$255,616	$261,243	$8,710	$8,710	$8,710	$8,710		$150,000	$76,403	
2016	$258,779	$259,455	$7,829	$7,829	$7,829	$7,829	$7,500	$150,000	$70,639	
2015	$243,462	$258,779	$10,000	$10,000	$9,019	$7,500		$150,000	$72,260	
2014	$239,249	$243,462	$12,500	$12,500	$7,387	$3,500		$150,000	$57,575	
2013	$211,641	$239,249	$12,500	$12,500	$6,740			$150,000	$57,509	
2012	$170,294	$211,641	$14,603	$10,476	$6,666			$150,000	$29,896	
2011	$203,588	$170,294	$11,710	$8,364	$5,436			$125,474	$19,310	
2010	$188,965	$203,588	$15,150	$9,410	$3,785			$164,623	$10,620	
2009	$186,215	$188,965	$15,150	$9,285	$3,500			$150,000	$11,030	
2008	$186,968	$186,215	$17,318	$10,614				$50,000 Amended by Council	$158,283 $108,283 Amended by Council	
2007	$193,749	NA	$17,947	$11,115					$164,687	
2006	$195,019	NA	$18,135	$11,115					$165,769	
2005	$199,764	NA	$18,480	$11,340					$169,944	
2004	$239,029	NA	$22,000	$13,500					$203,529	
2003	$234,516	NA	$22,000	$13,000					$24,516	$175,000

*2018 CDBG allocation doesn't include 15% Public service fees as Henneping County Directly distributed the funds.

HENNEPIN COUNTY
REHABILITATION LOAN PROGRAM

PROGRAM DESCRIPTION
CITY OF BROOKLYN CENTER

The owners of single-family, owner-occupied properties (including duplexes) may be able to receive housing rehabilitation assistance in the city of Brooklyn Center provided that funds are available and that the household meets eligibility requirements.

The funds are available in the form of a deferred loan- no monthly payments – secured by a lien (in the form of a mortgage) against the property for a period of fifteen years. If the property is sold, or title conveyed or transferred, or if the property ceases to be the permanent residence of the borrower, the amount borrowed must be repaid. In certain cases, interest must also be paid.

Households (including everyone living in the home) must have incomes which do not exceed 80% of area median as adjusted for family size (see Table 1 below). Households with incomes at or below 50% of area median are eligible for the interest free loan. Households with incomes between 51% and 80% of area median have loans which are subject to interest. Every year for the first ten years of the lien the amount owed is increased by 3% of the initial loan amount. For example, a household borrowing $10,000 would have the amount owed increased by $300 each year so, after ten years, the amount owed would be $13,000. Alternating financing is also available for the households between 51% and 80% of area median income.

Household Size	50% of median income (interest free loans)	80% of area median income (subject to 3% annual simple interest)
1 person	$33,050	$50,350
2 persons	$37,750	$57,550
3 persons	$42,450	$64,750
4 persons	$47,150	$71,900
5 persons	$50,950	$77,700
6 persons	$54,700	$83,450
7 persons	$58,500	$89,200
8 persons	$62,250	$94,950

In order to be eligible for assistance, the following criteria must be met.

- Funds have to be available
- All required application materials must be submitted
- Household income cannot exceed 80% of area median income
- Household income must be adequate to support the monthly expenses of the household
- Borrowers must be current on federal income tax payments or be able to demonstrate that they are current on an IRS approved payment schedule

- Borrowers must be current on property tax statements or have entered into a Confession of Judgment with the County and be current on the payment schedule
- Borrowers must have a reasonable credit history
- Borrowers must own and occupy the home as their principal place of residence and must have a recordable interest in the property (be willing and able to sign the mortgage which will be recorded against the title)
- Borrowers must accept a fifteen-year lien against title to their home
- There should be enough equity in the property so that the CLTV (combined loan to value or the total of all liens and mortgages against the property – including that associated with this loan) does not exceed 95% of the EMV (estimated market value as it appears on the Property Tax Statement)
- If the property is in a flood zone it must be properly insured

The maximum loan $30,000 but the actual amount may be less to ensure that the CLTV does not exceed 95%. Funds are rarely, if ever, paid directly to the Borrower.

Once a Borrower's eligibility has been determined, staff from Hennepin County will arrange to schedule an appointment to carry out a property inspection to establish, with the help of the Borrower, the improvements and repairs that are eligible and necessary. If the house was built before 1978, an assessment of lead-based paint hazards must also be carried out by Hennepin County staff. If children under the age of six live in or frequently visit the property, Borrowers may also be eligible for a small loan which will contribute towards the cost of any work needed to deal with any lead-based paint hazards. A Scope of Work will be prepared and the homeowner will use the Scope to secure at least two bids for the proposed improvements. A contractor or contractors will be selected and contracts will be executed by the homeowner and the contractor(s). Whenever a payment is requested, for partial or final completion of work, the homeowner must sign a certificate authorizing payment and the work must be inspected and approved by all appropriate parties. The contractor is paid directly by Hennepin County.

If you have any questions, please contact Linda Lee at linda.lee3@hennepin.us or 612-348-8955.

Loan terms are subject to change.

Hennepin County Rehabilitation Loan Program
Service Areas and Specific Terms

CITY	Maximum Loan Amount	Combined Loan-to-Value to Not Exceed	HOUSEHOLD INCOME BELOW 50% AMI	HOUSEHOLD INCOME 51% to 80% AMI
Brooklyn Park	$15,000	NONE	• 10 year deferred loan • No interest • No monthly payment	• 10 year deferred loan • 3% simple interest • No monthly payment
Minnetonka	$15,000	95%	• 10 year deferred loan • No interest • No monthly payment	• 10 year deferred loan • 3% simple interest • No monthly payment
Hopkins	$25,000	100%	• 15 year deferred loan • No interest • No monthly payment	• 15 year deferred loan • 3% simple interest (first 10 years) • No monthly payment
Brooklyn Center	$30,000	95%	• 15 year deferred loan • No interest • No monthly payment	• 15 year deferred loan • 3% simple interest (first 10 years) • No monthly payment
Consolidated Pool Cities*		95%		
Maple Grove		95%		
New Hope		95%		
St. Louis Park		95%		
Richfield	$30, 0000	95%	• 30 year deferred loan • No interest • No monthly payment	• 30 year deferred loan • 3% simple interest (first 10 years) • No monthly payment

*Consolidated Poor Cities include: Champlin, Corcoran, Crystal, Dayton, Deephaven, Excelsior, Golden Valley, Greenfield, Greenwood, Hanover, Hassan, Independence, Long Lake, Loretto, Maple Plain, Medicine Lake, Medina, Minnestrista, Mound, Orono, Osseo, Robbinsdale, Rockford, Rogers, St. Anthony, St. Bonifacius, Shorewood, Spring Park, Tonka Bay, and Wayzata.

			HOUSEHOLD INCOME BELOW 50% AMI AND EMV IS BELOW MHFA HOME COST LIMIT OF $328,200	HOUSEHOLD INCOME 51% to 80% AMI OR EMV IS ABOVE MHFA HOME COST LIMIT OF $328,200
Edina	$30, 0000	95%	• 15 year deferred loan • No interest • No monthly payment	• 15 year deferred loan • 3% simple interest (first 10 years) • No monthly payment

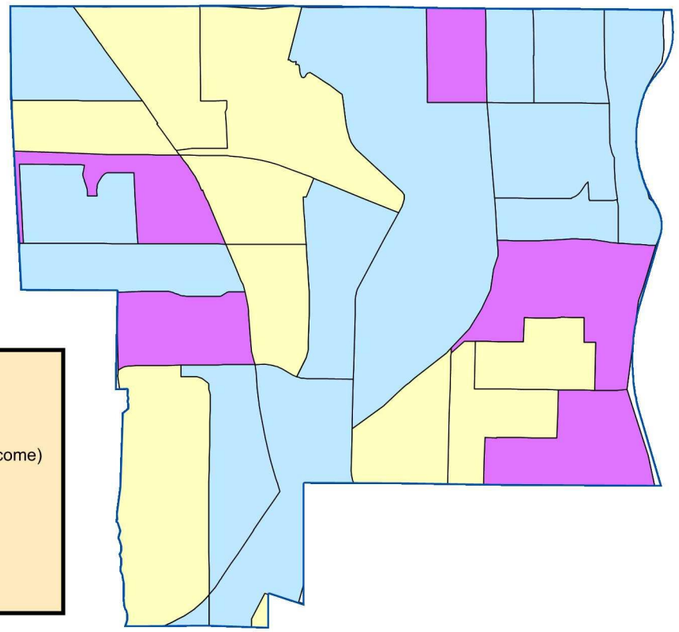
OUTSTANDING LOANS: Brooklyn Center, Consolidated Pool Cities, Edina, Maple Grove, Minnetonka, New Hope, St. Louis Park – These cities have a five year term on when households can be eligible to participate in the program again (five years from date of repayment agreement).

Hopkins and Minnetonka – In order to be eligible to participate in the program, a household cannot have an outstanding loan from the city's rehabilitation loan program.

Brooklyn Park – There is a limit of one loan per lifetime. There is an exception when it comes to repairs.

CDBG Code Enforcement Focus Area Determination
2014 - City of Brooklyn Center

2014 Vacant Property Rate

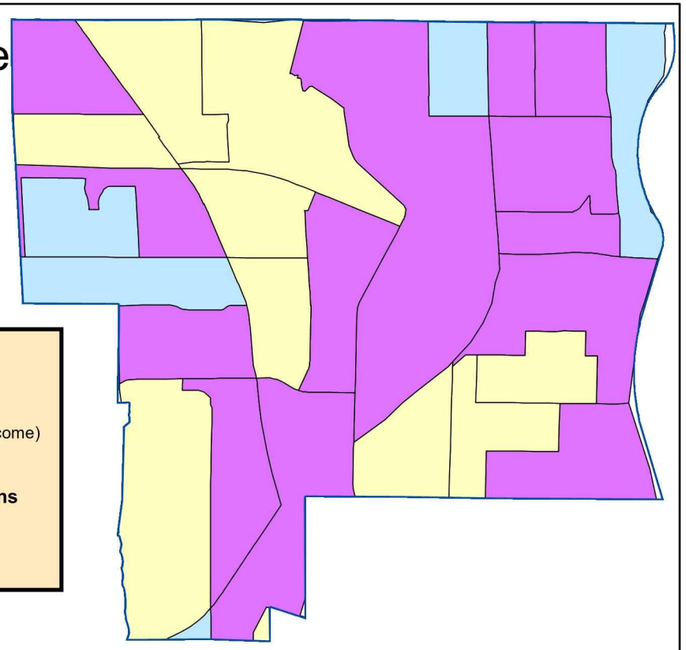


Legend
- City Border
- Areas Excluded (Non LowMod Income)

Block Groups

Percent of Vacant Properties
- 0% - 3.5%
- 3.6% - 100%

2014 Property Code Violation Rate

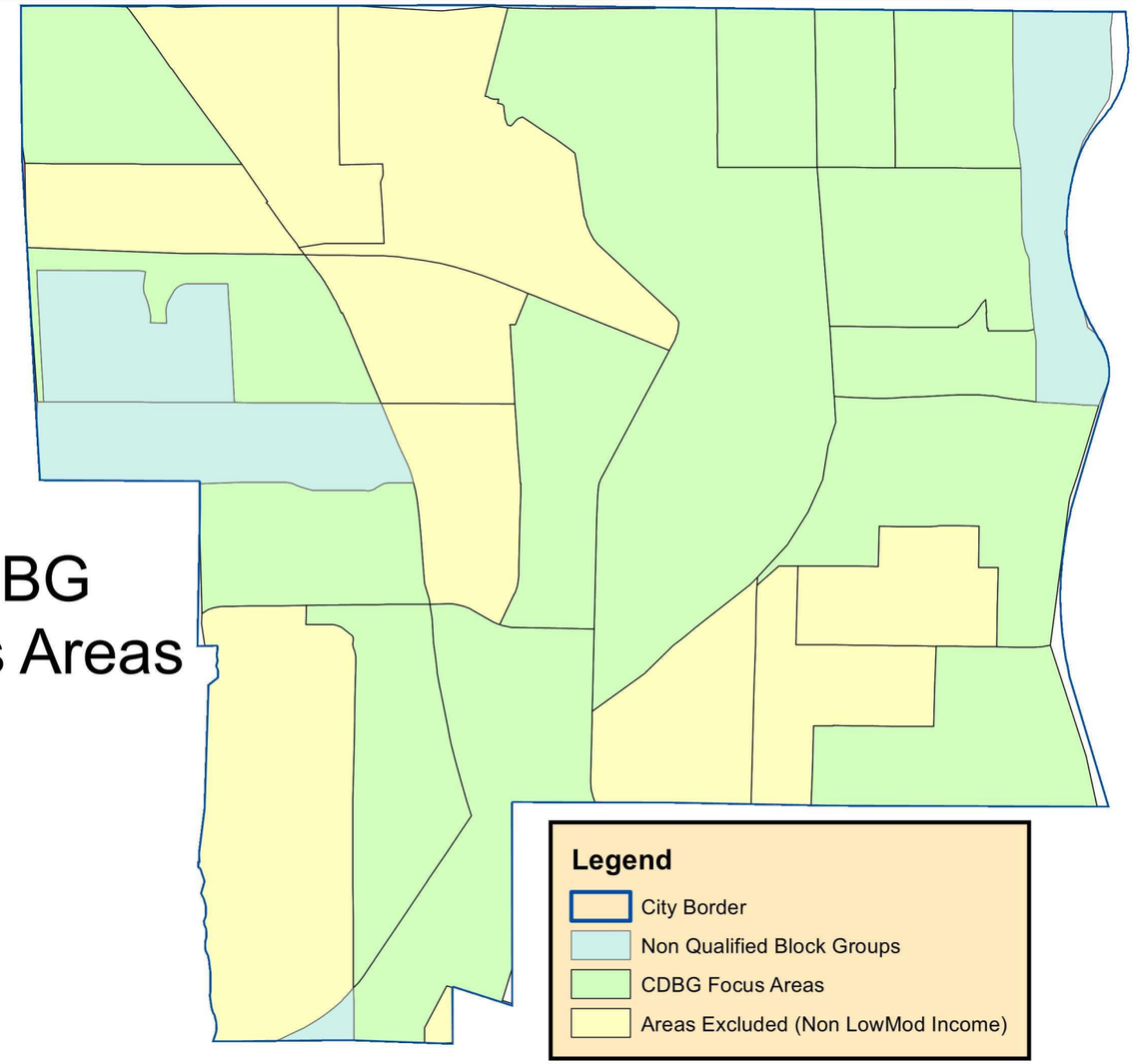


Legend
- City Border
- Areas Excluded (Non LowMod Income)

Block Groups

Percent of Property Code Violations
- 0% - 15%
- 15.1% - 73%

CDBG Focus Areas



Legend
- City Border
- Non Qualified Block Groups
- CDBG Focus Areas
- Areas Excluded (Non LowMod Income)

Definition of a deteriorated neighborhood as required for CDBG fund allocation

For a neighborhood (Census Block Group) to qualify as deteriorated, the neighborhood must meet any of the following scenarios:

1. A census block that had a property code violation rate higher than 15% in 2014.
2. A census block that has a vacant property rate higher than 3.5% in 2014.

Definitions defined:

Property Code Violation Rate: The percentage of violations in a census block group based of the number of ordinance violations recorded in the neighborhood during code enforcement inspections, including proactive and complaint inspections.

Vacant Property Rate: The percentages of vacant properties in a census block group base on the number of properties that were known to be vacant in 2014.

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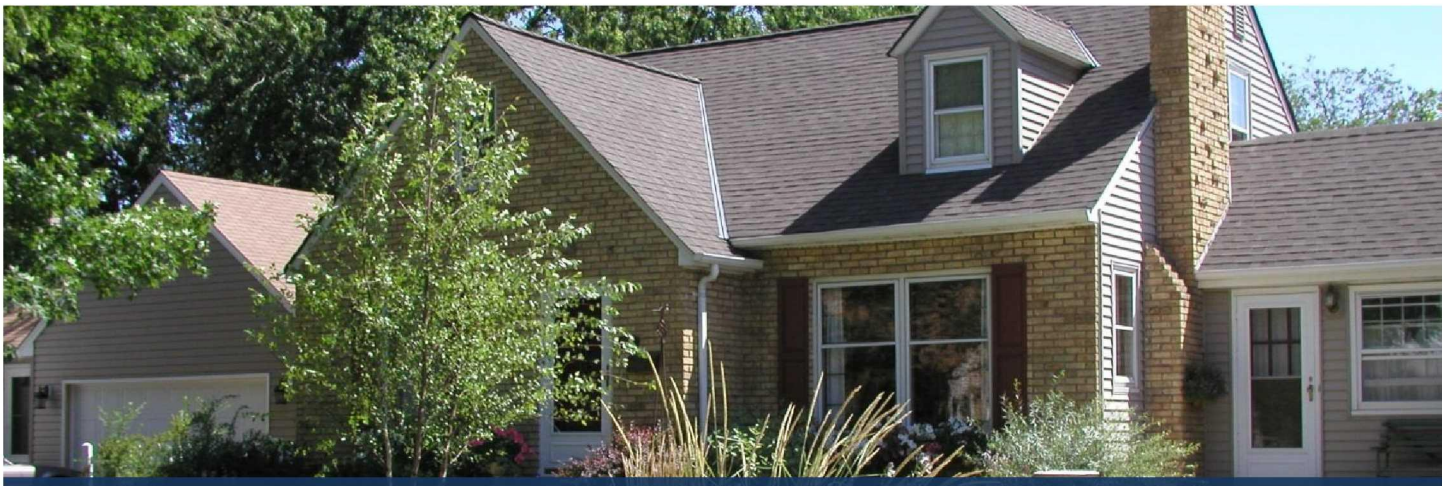

RICHFIELD RENTERS:

Get downpayment assistance up to $10,000 to buy your first home in Richfield!

About the Loan

Up to $10,000 towards the purchase of a home
0% interest, no payments
Loan is forgiven after 10 years living in the home
Pro-rated repayment if sold within the first 10 years

Who Is Eligible

Current Richfield renters who have not owned a home in the past 3 years
Households must meet income limits
Have obtained mortgage pre-qualification from an approved lender
Maximum non-retirement assets of $25,000
Buyer will contribute at least $1,000 of their own funds towards the down payment
Must apply before executing a Purchase Agreement
Completion of Home Stretch First Time Home Buyers Course prior to closing

Household Size	Total Household Income Limit
1	$50,350
2	$57,550
3	$64,750
4	$71,900
5	$77,700
6	$83,450
7	$89,200

Richfield
The Urban Hometown

Contact a Richfield Housing Specialist for full guidelines and more information:
612-861-8778 or housespecialist@richfieldmn.gov

Community Development Block Grant Funding Allocation

City Council Worksession, January 14, 2019
Meg Beekman, Community Development Director

CDBG Overview

- City Staff is seeking direction from the City Council on the allocation of 2019-2020 funds
- CDBG funds are provided by the U.S. Department of Housing and Urban Development (HUD)
- The funds are for community development activities that benefit low and moderate income persons
- The funds are primarily intended for bricks and mortar improvements, as opposed to public service activities
- Hennepin County receives CDBG funds directly from HUD
- Brooklyn Center is considered a Direct Allocation City and is a sub-recipient of the funds through Hennepin County.

CDBG Statutory and Administrative Requirements

- The Federal Statute for the CDBG program requires that each activity meet one of three national objectives:
  - Benefiting low income persons
  - Preventing or eliminating slums and/or blight
  - Meeting urgent community needs
- 70 percent of the CDBG expenditures must be used for activities benefiting low and/or very low income persons.

3

Hennepin County 5-Year Plan

- Hennepin County adopts a 5-year funding plan, which further defines the goals of the program and eligible activities:
  - Preserving and creating multifamily rental housing
  - Preserving and creating single-family home ownership
  - (Public Service funds) Supporting agencies that provide public education and outreach services for job training, homelessness prevention, fair housing, financial literacy, emergency assistance, domestic abuse shelter and counseling, senior centers, senior services, at-risk youth counseling, youth activities and transportation services
  - Improved community facilities and infrastructure
  - Neighborhood revitalization

4

Background

- Hennepin County administers CDBG funds on behalf of HUD
- Cities that wish to diverge from the typical use of funds must seek permission from the County
- Prior to 2018, cities were allowed to allocate up to 15 percent of their CDBG funding to public services.
- In 2018 the County determined that it would be easier to pool the public service allocation and administer the distribution of those funds internally
  - Each city is now asked to send a representative to a committee, which reviews public service funding requests

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Previous CDBG Allocations

- CDBG funding allocations run from July 1st-June 30th each year.
- The 2018-2019 CDBG funding round was allocated by the City Council in February 2018 and is set through June 30, 2019

2018 CDBG Amount	Allocation determination	Program
$150,000	$150,000	Code Enforcement and Neighborhood Revitalization
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$86,300	Remaining	The remaining funds were allocated to the Hennepin County Home rehab program.

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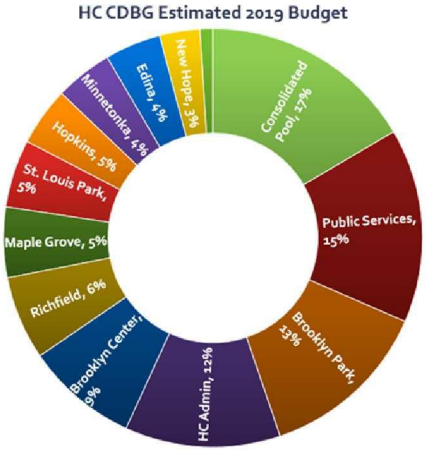
2019-2020 Allocation

- Hennepin County estimate of $257,550
- This allocation amount adjusted once HUD provides final amounts
- Hennepin County receives the lump sum from HUD and determines the allocation among the participating cities based on a formula that takes into account population and need



7

Funding Allocation Options

- Code Enforcement and Neighborhood Revitalization
  - The City's foreclosure and vacant property rate continues to decline
  - The Code Enforcement Program has been a highly effective tool to ensure property maintenance and to fight neighborhood blight
  - Staff does not recommend reducing efforts towards code enforcement strategies
  - It may be appropriate to reallocate some CDBG funds back towards their core purpose, given the limited use of the funds;
    - This would have a direct effect on the General Fund.

8

Funding Allocation Options

- Housing Rehab Program
  - CDBG funds are the only source of funding to maintain the single family housing stock
  - It may be helpful to increase the allocation of CDBG funds to this use
- Down Payment Assistance
  - Richfield and Golden Valley are in the process of allocating CDBG funds for down payment assistance program
  - Brooklyn Center could consider a similar program and pair it with the newly offered home ownership classes

Funding Allocation Options

- Direct affordable apartment assistance –
  - Brooklyn Park offers a program that supports naturally occurring affordable multi-family buildings with maintenance and rehab.
  - One challenge with this program is that the cost of rehabilitation is generally quite high, which limits the use of the funds to one or two properties a year
- Scattered site acquisition/rehab
  - Similar to the City's previous buy and replace program
  - It allows for the purchase and renovation or demo of a blighted structure, which is then sold to a low/moderate income household
  - The individual cost per unit is high, minimizing the impact of this program

Funding Allocation Options

- Infrastructure improvements
  - These are physical improvements to community or public facilities that are utilized by low and moderate income residents
  - Some cities have used CDBG funds to purchase play ground equipment or make other physical improvements
  - One challenge is that it triggers Federal Fair Wage standards, which require a significant amount of reporting and paperwork, often making the small scale improvements more work than the value of the funding

11

Policy Issues

- The 2019 CDBG funding year is from July 1, 2019 to June 30, 2020.
- The approved 2019 budget includes $150,000 grant funds for Code Enforcement.
  - Of that, $75,000 is allocated from 2018 CDBG funds and the other $75,000 was anticipated to be funded by 2019 CDBG funds.
  - Therefore, the 2019 funding would require a minimum of $75,00 allocated to Code Enforcement Activities to maintain current GF

12

Policy Issues

- Does the City Council want to continue with the same funding as previous year?
- Are there any other programs or areas that city staff should research?
- Does the City Council want staff to move forward with one or more of the options provided in the memo?
- The 2019 funding allocation must be approved by City Council Resolution by the end of February.

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Nathan Reinhardt, Finance Director

SUBJECT: BC Liquor Store #1 Relocation

Recommendation:

- *It is recommended that the City Council consider providing direction to staff regarding ownership of Store #1.*

Background:

In 2018, the City contracted with Shenehon Company to complete a municipal liquor store market analysis study to assist the City in the determining of:

1. How can sales, market share and profit be optimized for our stores?
    - Considerations of current effectiveness, new site locations, and expansions or upgrading of current facilities.

2. What are the optimal locations for our liquor stores?
    - How man liquor stores would provide for optimal sales/profitability?

3. Should the City lease or own its liquor stores?
    - What opportunities exist within the identified optimal areas for leasing and owning?

At the September 10, 2018 work session, Bob Strachota, President of Shenehon Company presented an overall summary and findings contained in their market study, and reviewed options for the location of Store #1 (5625 Xerxes Avenue North). The lease at Store #1 end June of 2020.

The cited benefits of ownership discussed in the report include:

- Profit margin would benefit from no longer paying rent expense, and BC Liquor would accumulate equity as debt is paid off
- Equity appreciation if the value of real estate increases over time
- Complete autonomy over the layout of the store, signage and branding and ability to maximize the economic and energy efficiency of the property
- Maintenance costs could be maintained and managed, and property taxes would not be applicable
- Elimination of percentage-based rent (based on how successful the store was at generating sales)

At that work session the consensus from the City Council supported moving forward with the ownership of a municipal liquor store in proximity to the current location of Store #1.

Staff reviewed and inquired about multiple locations and has determined a preferred location at 1350 Shingle

Creek Crossing. The site would offer high visibility and is near grocery (Cub Foods & Walmart). The site would include previously completed parking lot and site improvements and a more secure loading area. We are also hopeful that a municipal liquor store would provide additional economic development momentum to this side of the Shingle Creek Crossing.

Staff has negotiated with Gatlin Development and reached a mutual understanding through a draft letter of intent to purchase the property at a sale price of $680,000, which represents a ten percent premium on the 2018 assessed value of $617,200. Upon execution of the letter of intent the City would have exclusive negotiating rights for a period of 30 days. The terms would include a shared parking agreement, use of loading dock area and the right to use panels on existing pylon signs.

Staff has also contracted with Architectural Consortium LLC, to provide preliminary floor plans and preliminary exterior elevations for the proposed Brooklyn Center Liquor Store. The floor plan shows a corner entrance into the store, wider aisles with shorter shelfing, a large walk-in beer cave, three office spaces and a small conference/break room.

The 1.42 acre site has space to accommodate a building up to 13,600 square feet. The preliminary floor plan for the liquor store is 9,582 square feet, leaving 3,727 square feet available that would be owned by the City of Brooklyn Center. This additional square footage could be used for future expansion, lease or sale.

The preliminary designs will be used as the basis for determining the estimated construction cost and budget. The City has contracted with a third party, Design-Build Consulting to provide a cost estimate prior to bidding. Design-Bid Consulting has worked as a consultant on various buildings in Shingle Creek Crossing and is familiar with the construction standards and costs of construction of those previous buildings. The cost estimate will be completed prior to January 28, 2019 City Council meeting.

Staff will provide a power point presentation on the process, proposed site and cost, and the design of the store.

Policy Issues:

Does the City Council support the recommendation to move forward with a letter of intent to purchase land from Gatlin Development and preparation of bid documents for the construction of a municipal liquor store?

Strategic Priorities and Values:

Safe, Secure, Stable Community

Brooklyn Center Liquor Store #1

The first Brooklyn Center Municipal Liquor Store (off-sale) was opened in December 1949 at 6445 Lyndale Avenue.





Municipal Liquor Store and Fire Department at 6445 Lyndale Avenue North. Originally, it housed the BC Village offices.

City Council Work Session, January 14, 2019
Nate Reinhardt, Finance Director

Background

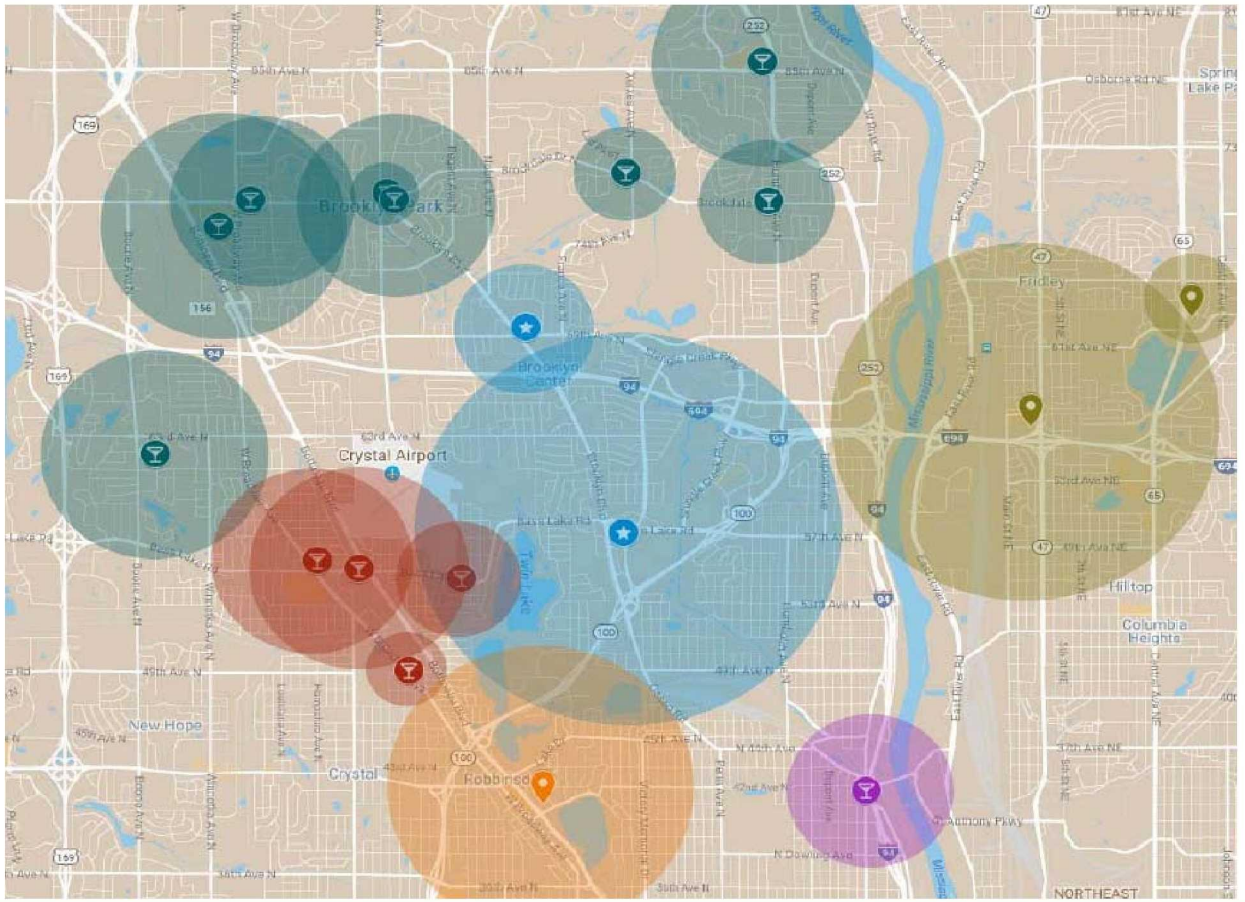
- Store #1 (5625 Xerxes Avenue South near Cub Foods) lease expiring June 2020
- City requested submittal of qualifications of interested firms to complete a market analysis for its municipal liquor operations (October 2017)
- Shenehon Company Market Study Work Session (September 10, 2018)
  - Consensus of the City Council to move forward with pursuing the ownership of a municipal liquor store in proximity to the current location of Store #1

Market Study Recommendations

Store #1

- Well situated and should remain proximate to this shopping destination
- City should purchase land upon which a city-owned store can be built
- Targeted footprint should be at least 7,500 square feet, but ideally would be 8,500 to 9,000 square feet
- Inventory product mix should focus on fastest turning products and those that contribute to the most revenue (decrease emphasis on wine)
- Time is of the essence for making a decision on this store, given time remaining on the lease

Estimated Market Reach

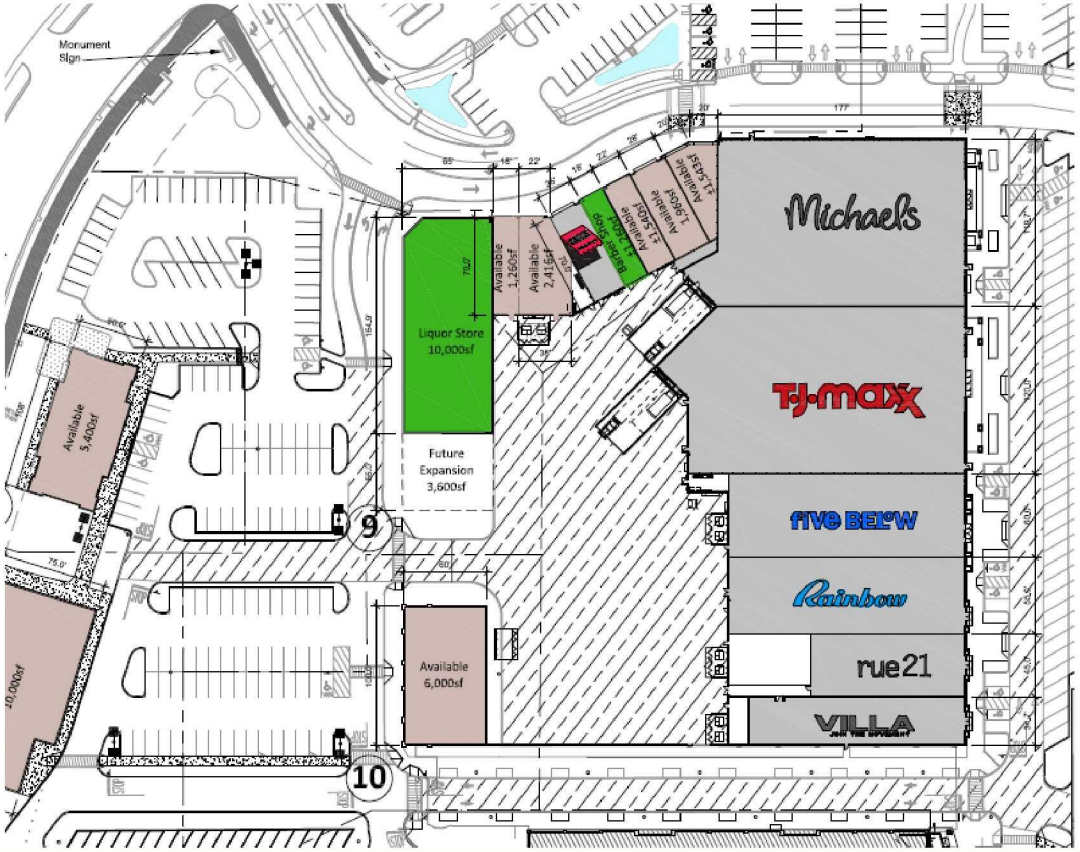


Benefits of Ownership

- Profit margin would benefit from no longer paying rent expense, and BC Liquor would accumulate equity as debt is paid off
- Equity appreciation if the value of real estate increases over time
- Complete autonomy over the layout of the store, signage and branding and ability to maximize the economic and energy efficiency of the property
- Maintenance costs could be maintained and managed, and property taxes would not be applicable
- Elimination of percentage-based rent (based on how successful the store was at generating sales)

Shingle Creek Crossing

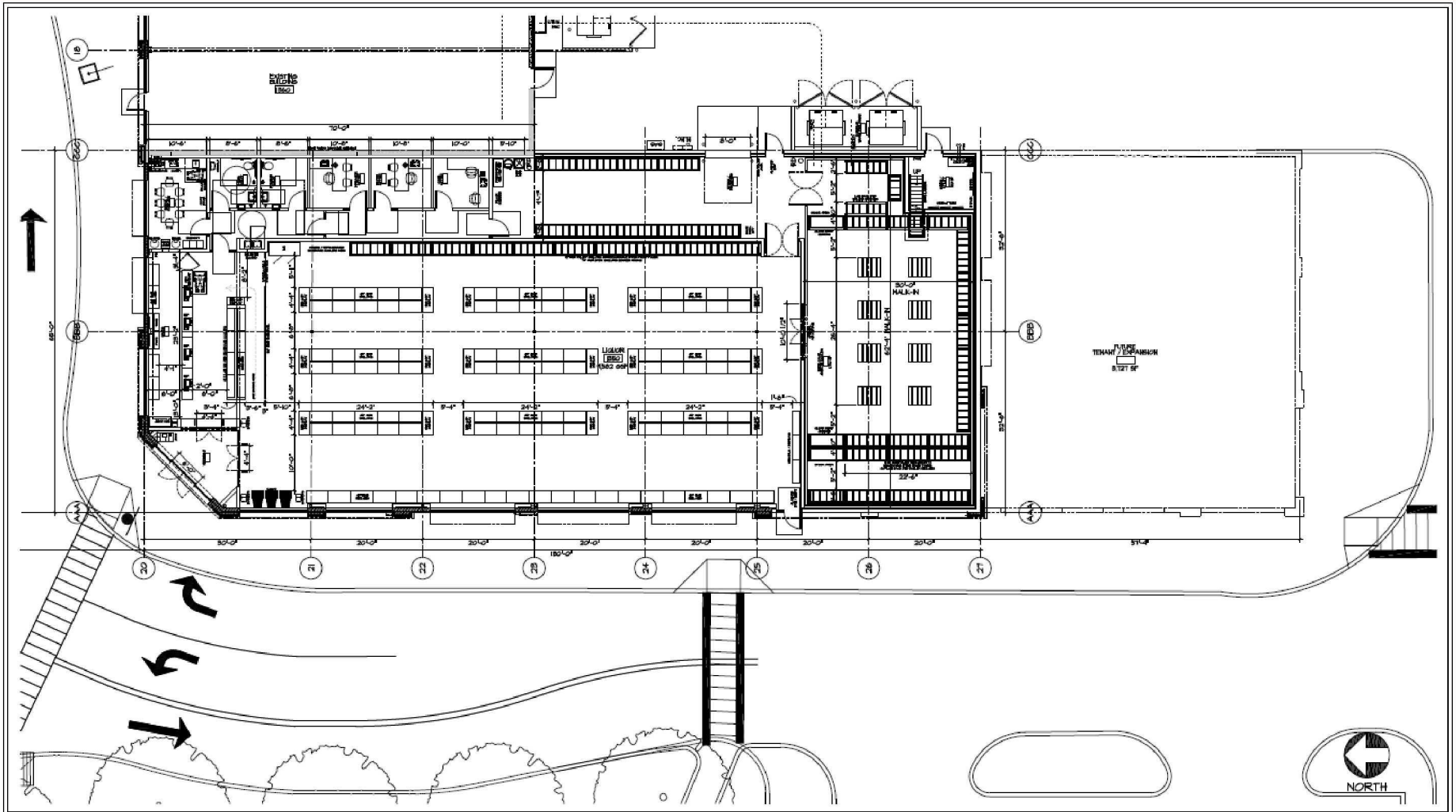
- Pad Site of up to 13,600 square feet
- Proposed purchase price of $680,000
- Near Grocery (Cub Foods/Walmart)
- High Visibility/Site Lines
- Parking
- Back Loading Area



Shingle Creek Crossing - Aerial







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PREPARED FOR: BROOKLYN CENTER LIQUOR — Celebrate Responsibly at the Center

BROOKLYN CENTER LIQUOR STORE

1350 SHINGLE CREEK CROSSING

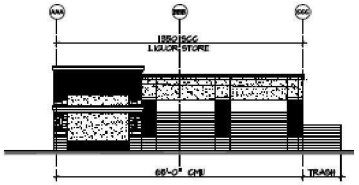
PRELIMINARY FLOOR PLAN

SCALE: 1/8" = 1'-0" @ 34X22
1/16" = 1'-0" @ 17X11

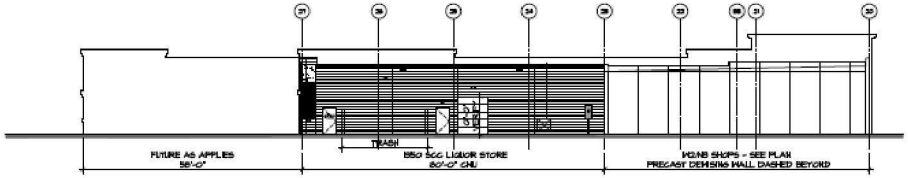
PROJECT NUMBER:	18-1078-01
ISSUED DATE:	12/27/18
DRAWN BY:	SS
CHECKED BY:	SA

A2.1

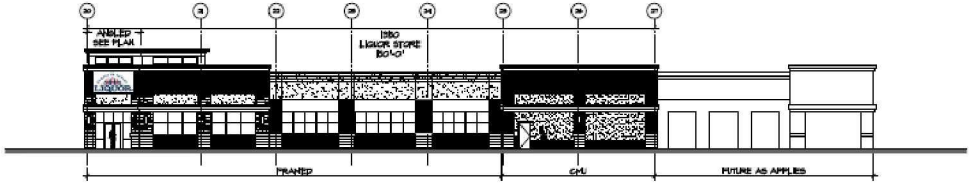
Architectural Consortium, L.L.C. 2018



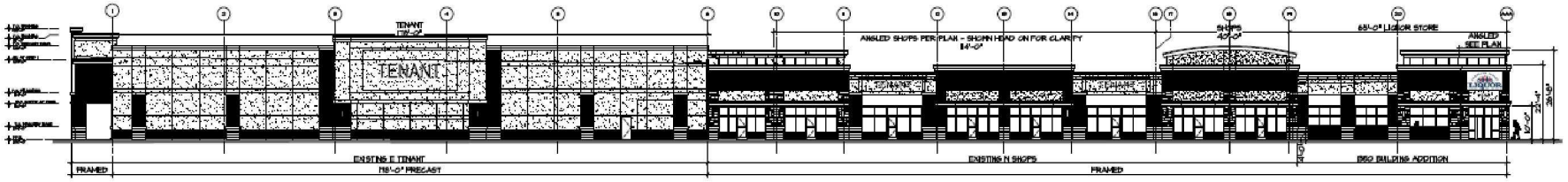
SOUTH ELEVATION



WEST (REAR) ELEVATION



EAST ELEVATION



NORTH ELEVATION

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PREPARED FOR:

BROOKLYN CENTER LIQUOR
Celebrate Responsibly at the Center

SHINGLE CREEK CROSSING
1350 SCC BROOKLYN CENTER, MN

PRELIMINARY EXTERIOR ELEVATIONS

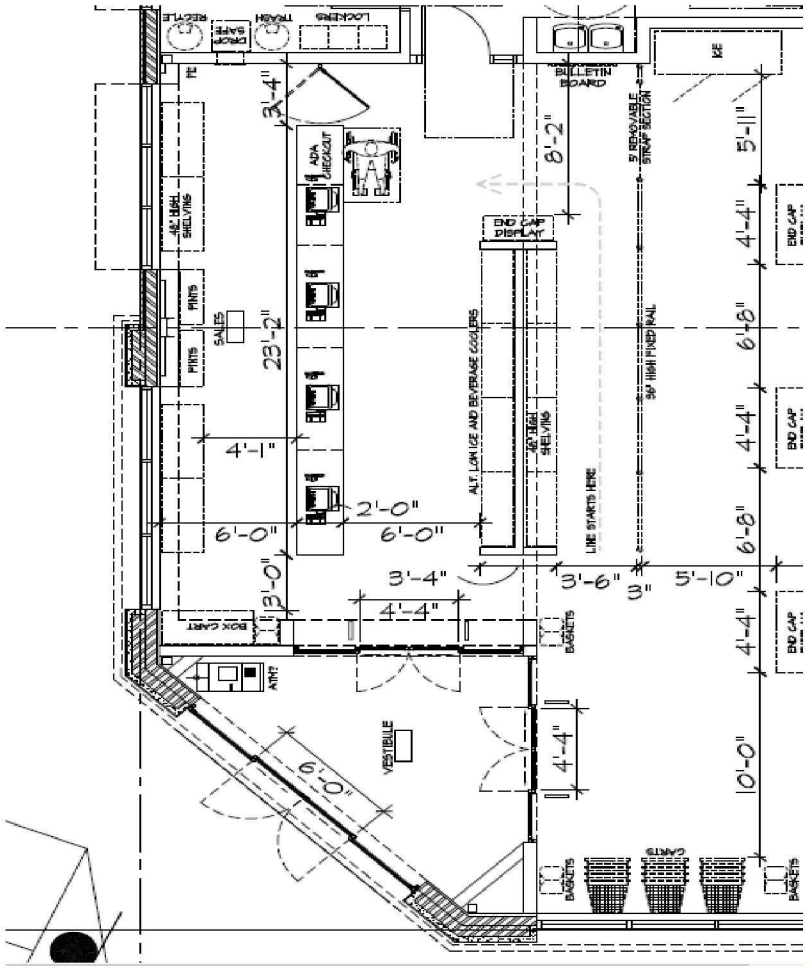
PROJECT NUMBER:	16-1076-01
ISSUED DATE:	12-17-18
DRAWN BY:	ES
CHECKED BY:	KA

A1

Architectural Consortium, L.L.C. 2018

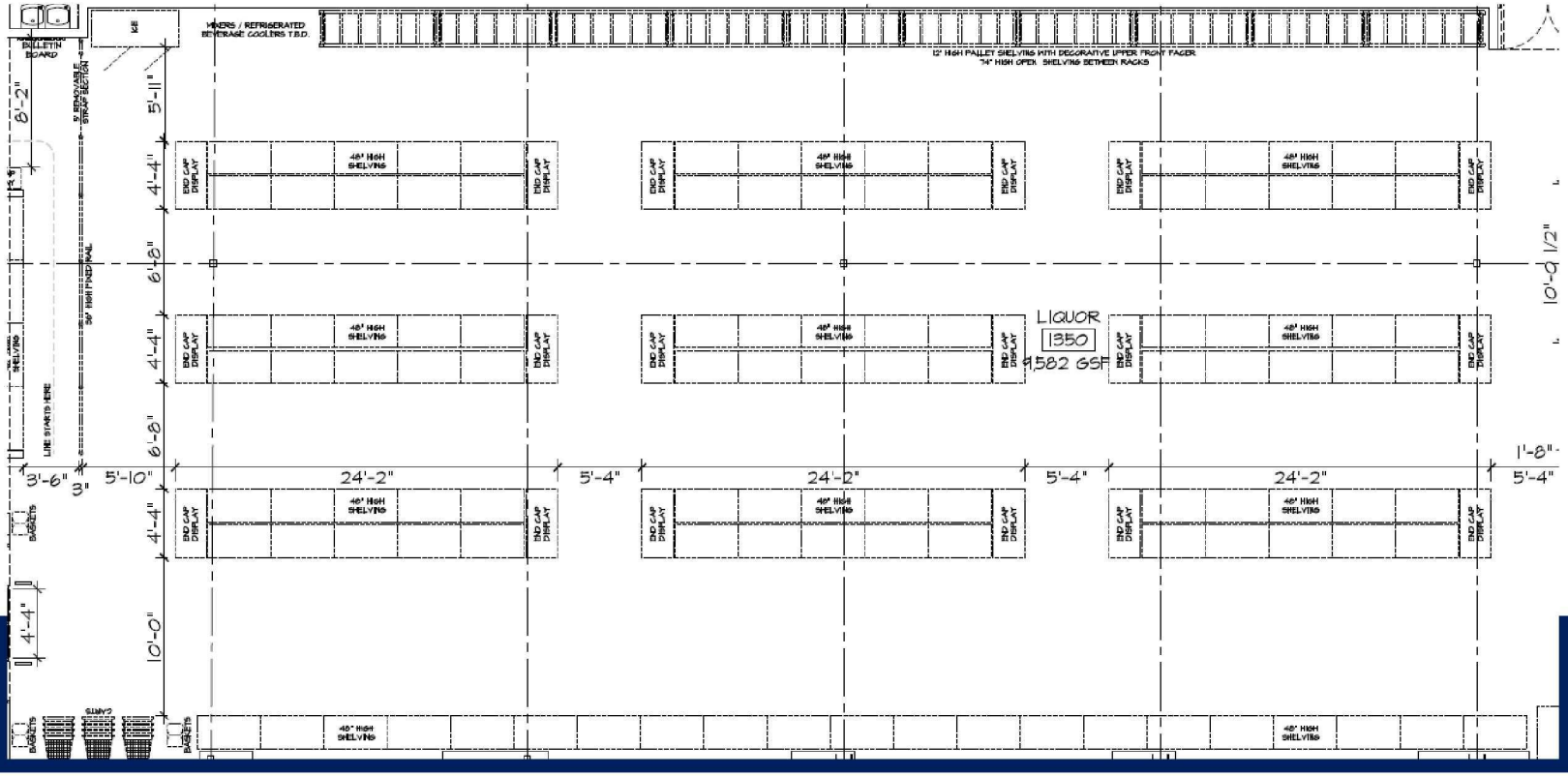
Entrance/Check-out Area

- Vestibule
- 4 registers (single line)
- Additional product available behind cashiers



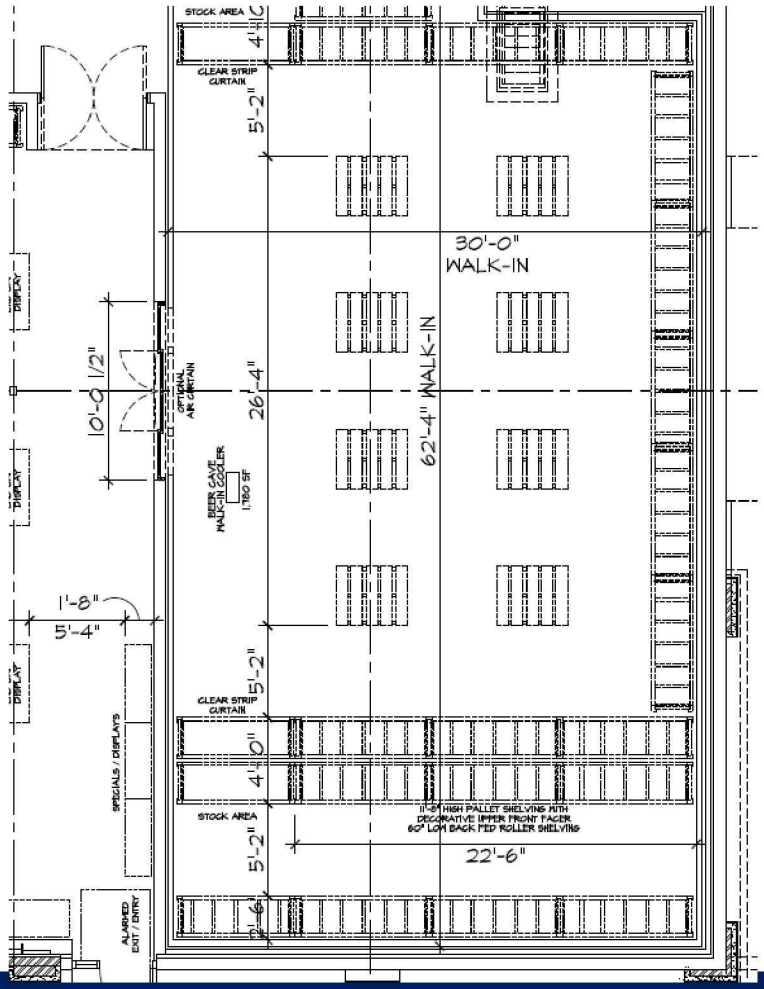
Floor Space

- Lower (4ft shelving)
- Wider/more attractive entrance aisle



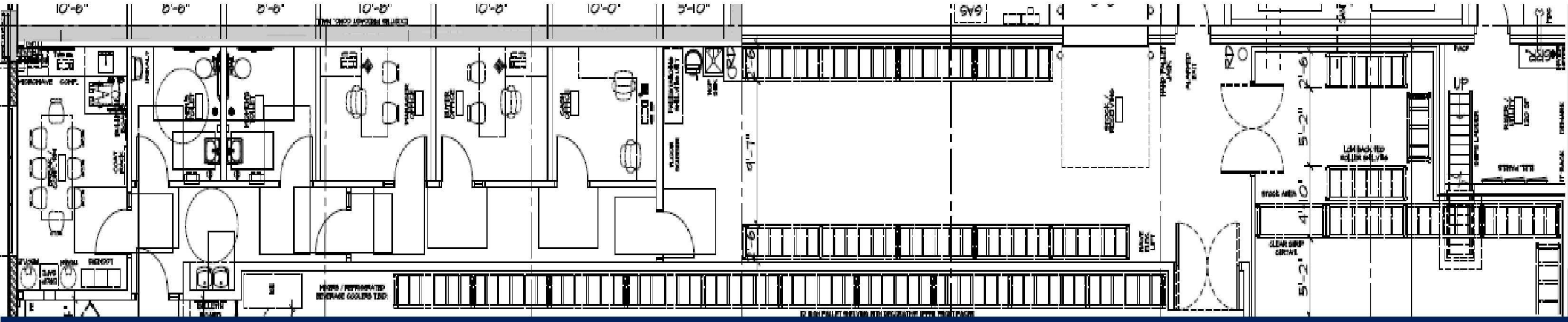
Beer Cave

- Large walk-in beer cave
- Pallets in the middle, shelving on the outside



Back Office/Loading Space

- Small conference/break room area
- Bathrooms
- 3 office spaces
- Loading area/back room directly adjacent to main floor/beer cooler



Estimated Construction Costs

- David Hunt, Design-Build Consulting (3rd party estimate)
  - Amounts & budget in process of being prepared (will be completed by January 24th Meeting)

Financing

- Total Estimated Cost of $3.5 million* = Estimate Land Acquisition ($680k)+ Construction Costs ($2.82 million*)
  - BC Liquor Cash - $900,000 (available $2.03 million)
  - EDA Lease Revenue Bonds - $2.6 million
    - 15-years & 3.45%
    - Annual payments of $230,000
    - Equivalent debt payment to annual lease payment

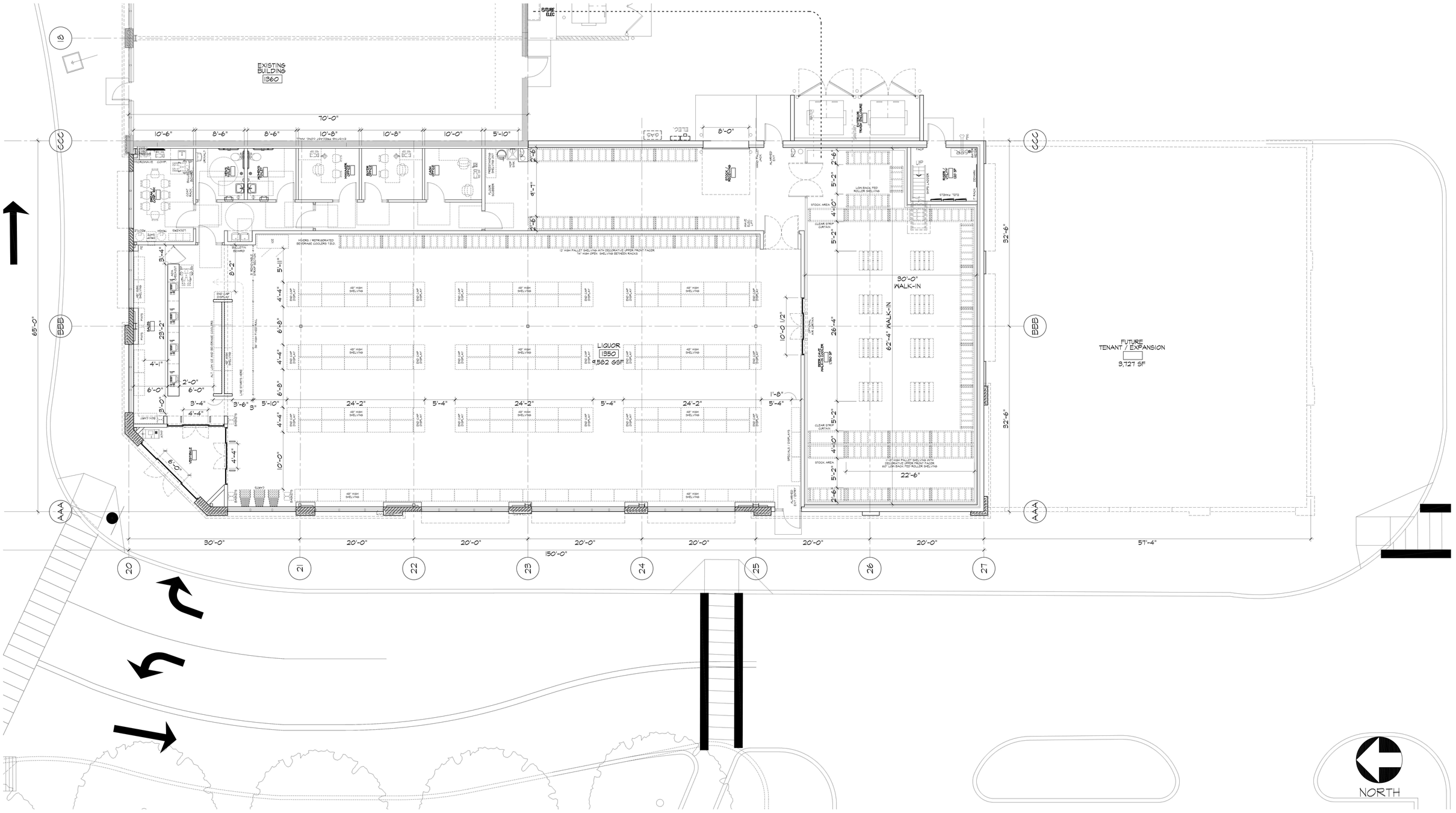
*Estimated amount will be revised when consultant's estimate is received, these figures are being used for illustration purposes of potential financing options

Next Steps

City Council Meeting January 24, 2019

- Resolution to enter into a Letter of Intent (LOI) to purchase property from Gatlin Development
- Resolution to Prepare Bidding Documents for the Construction of a Municipal Liquor Store

Questions?



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901 North 3rd Street, Minneapolis, MN 55401	612-436-4030, Fax 612-692-9960

BROOKLYN CENTER LIQUOR STORE

1350 SHINGLE CREEK CROSSING

PRELIMINARY FLOOR PLAN

SCALE: 1/8" = 1'-0" @ 34X22
1/16" = 1'-0" @ 17X11

PROJECT NUMBER:	18-1076-01
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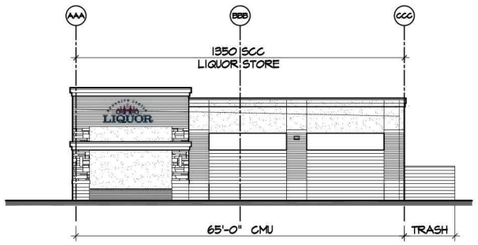
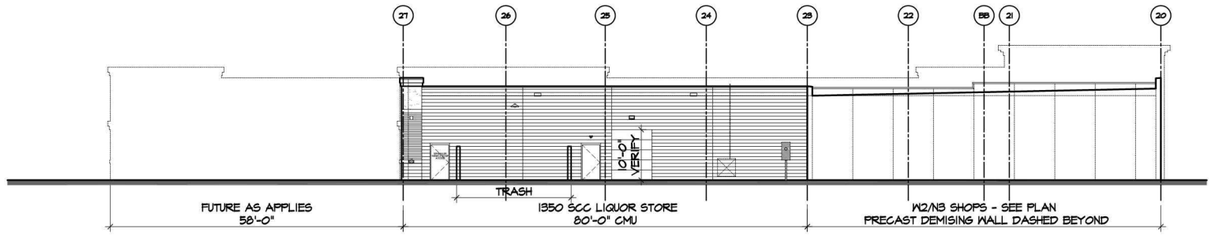
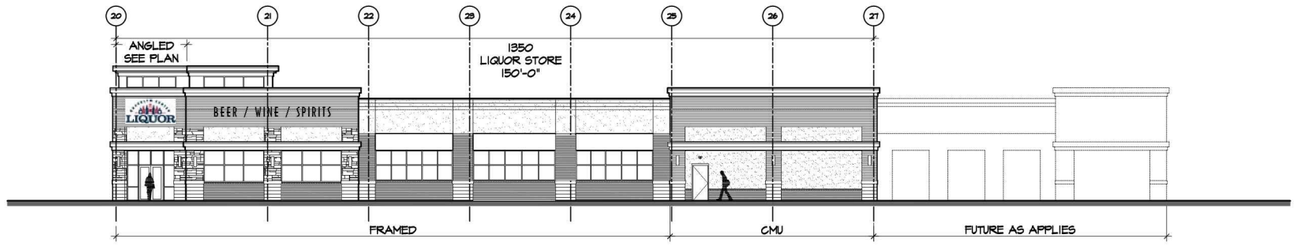
Architectural Consortium, L.L.C. 2018



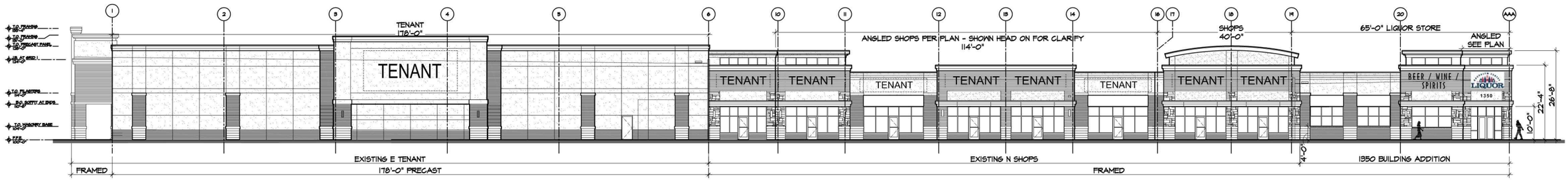
SOUTH ELEVATION



WEST (REAR) ELEVATION



EAST ELEVATION



NORTH ELEVATION

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PREPARED FOR: BROOKLYN CENTER LIQUOR — Celebrate Responsibly at the Center

SHINGLE CREEK CROSSING
1350 SCC BROOKLYN CENTER, MN

PRELIMINARY EXTERIOR ELEVATIONS

PROJECT NUMBER:	18-1076-01
ISSUED DATE:	12-17-18
DRAWN BY:	ES
CHECKED BY:	KA

A1

Architectural Consortium, L.L.C. 2018

Monument Sign

XERXES AVE. N
(8,700 VPD)

Available 5,400sf

Available 10,000sf

Liquor Store 10,000sf

Future Expansion 3,600sf

Available 6,000sf

Available 1,260sf

Available 2,416sf

Barber Shop ±1,240sf

Available 1,960sf

Available ±1,543sf

Michaels

TJ.maxx

five BELOW

Rainbow

rue21

VILLA
JOIN THE MOVEMENT

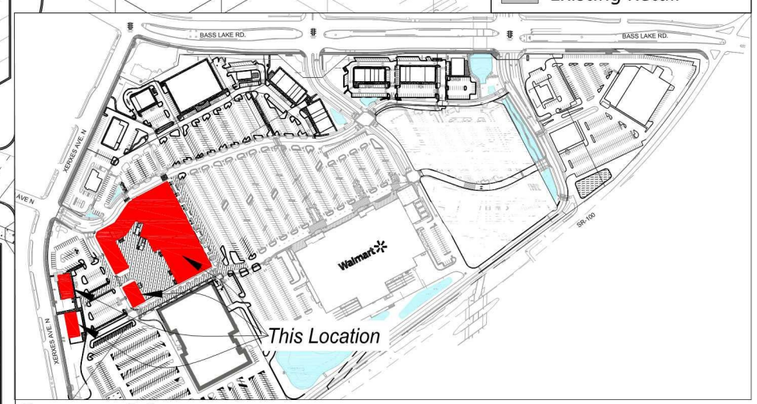
R

T

9

10

- Signed Lease
- Lease Negotiations
- Negotiating L.O.I.
- Interested Prospects
- Available Space
- Existing Retail



Location Map

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SP-2

Buildings R, T, 9, 10 & Food Court
September 25th, 2018

Shingle Creek Crossing
Brooklyn Center, Minnesota

0 40' 80' 160'
SCALE: 1" = 80'-0"

GATLIN DEVELOPMENT COMPANY

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: Council Retreat Discussion

Recommendation:

- It is recommended that the City Council develop options related to the purpose(s) for holding a Council retreat(s).

Background:

Over the past 16 years the Council has conducted a retreat primarily for the purpose of strategic planning and goal setting. In 2002, the Council strategies on how to address "smart growth", while in 2005, the Council set out to create a new Brooklyn Center "Downtown" blueprint.

The subject matter and structure of Council retreats have varied over the years; however, setting aside some time for the Council members to gather and deliberate has been consistently valued.

IN recent years the annual retreat cost has ranged from $7,000 to $10,000.

I have attached samples of agendas, work session items and summary proposals to provide a flavor of past retreat options.

On Monday, December 10, 2018 the Council expressed interest in conducting a council retreat(s) during the year of 2019. The Council directed staff to develop a discussion item for the next Council meeting.

In preparation of the Council's discussion on the issue of a retreat(s), staff developed three essential questions to be asked of the Council during the discussion including:

1. If the Council were to meet for 12 to 16 hours over the year (2019) for purposes outside of the regular duties and tasks of the Council, what would be the "best" and "most" valuable use of the time?
2. When would the Council be willing to meet for a retreat(s)?
3. What are the financial and time constraints that staff should consider in developing retreat(s) options?

The responses to the questions above will inform the development of retreat design options that will be presented to the Council in February.

The first question in particular relates to the issue of "why" would the Council meet in a retreat setting or for "what" purpose. This is perhaps the most important question. It is the most important, because the response will dictate the structure or format for the retreat. Staff has developed a short list of "what's" or "why's" the Council might conduct a retreat(s) including:

- **Professional Development** (i.e. Myers Briggs profile assessment, finding ways that each participant might develop and grow in their role with the City)

- **Leadership Skills** (i.e. the profile of quality leadership individually and collectively or Strengthfinders profile assessment)
- **Team Building** (i.e. understanding team dynamics, exercises to build trust and group cohesion)
- **Strategic Direction Review** (i.e. assessment of the current strategic priorities. Reviewing the new City electronic progress measurement tool and reviewing the status current initiatives)
- **Annual Council Goal Setting** (i.e. developing a concensus on the future direction and outcomes for the community, clarifying expectations, and roles for each stakeholder)
- **Special Topics Discussion** (i.e. poverty/wealth creation, homeless/homeownership, or violence/prevention)
- **Skill Building** (i.e. conflict resolution, diversity & inclusion, public speaking)
- **Others**

The listing of "others" from the list relate to ideas that Council Members may have or want to add to the list. During the worksession the Council will be asked to expand upon the list and then select the top 3 purposes to be considered for the retreat(s).

Design of the retreat may vary in time or length of a session, the number of sessions, the use of an external facilitator and/or the participants in the retreat (i.e. involving department directors or not). Again, the responses to the questions above by Council will be part of the options presented to Council in February.

Strategic Priorities and Values:

Operational Excellence

YEAR 2002

Overview

1. General Council discussion to identify major topics to discuss: opportunity for City Council to just talk about their strategic thoughts. (Have this discussion and identification to progress prior to gathering information to focus discussion.)
2. Organize discussion into identifying the following and determining broad principles to organize what:
    a. Information is needed
    b. What types of actions should be considered
    c. Prioritization of resource allocation

1. Future of the Community
    a. What are influences impacting/shaping future
        i. Schools
        ii. Business
        iii. Housing opportunities
        iv. Crime/perception
        v. Capital infrastructure
    b. How can City Council shape/impact future
        i. Ability to
            1. influence
            2. change
2. Smart Growth
    a. Process
    b. City council key elements
    c. Big picture
        i. Transit hub
        ii. Commercial synergy for Brookdale
            1. commercial where Summerchase is
        iii. expanded housing opportnities
3. Budget shortfall
    a. Principles
        i. Current employees
        ii. Use of fund balance
        iii. Neighborhood street projects
        iv. Use of taxes
4. Use of time
    a. What are priorities
        i. relationship to Council Goals for 2002
    b. Approach to Legislature

YEAR 2006

MEMORANDUM – COUNCIL WORK SESSION

DATE: October 6, 2006

TO: Brooklyn Center City Council

FROM: Curt Boganey, City Manager

SUBJECT: November 11th City Council Retreat

COUNCIL ACTION REQUIRED

The Council should provide direction to the City Manger regarding choice of facilitator for the upcoming Council retreat on November 11, 2006 at the Earle Brown Heritage Center.

BACKGROUND

Several months ago the City Council decided to set November 11th as date for a goal setting retreat. At the last Council work session further delineation of Council expectations was given. Based on feed back from colleagues, contact with the Government Training Service and the Kevin Frazell with the League of Minnesota Cities, several potential facilitators were contacted regarding proposal submission. Attached is a brief RFP e-mailed to these consultants following our last work session.

Enclosed for your review are responses from facilitators, Barbara K. Strandell, Barbara S. Arney, Karen Ray Associates and Donald Salverda.

The costs of these services vary as do the approaches outlined:

	Base Fee	
Strandell	$2,000	plus expenses estimated at $1,400
Arney	$2,500	plus mileage at .445/mile plus $ 480 for summary report
Ray	$2,400	City absorbs all other costs
Salverda	$2,000	plus .45/mile base cost includes post retreat report

Of the four firms above, I have only had first hand experience with Salverda. I am completing reference check for each the firms and will be able to provide that critical insight to you at the meeting

COUNCIL POLICY ISSUES

Should the City Council hold a goal setting retreat to help carry out its' policy making and management oversight responsibilities?

YEAR 2007

COUNCIL ITEM MEMORANDUM

TO: Mayor and Councilmembers

FROM: Curt Boganey, City Manager

DATE: January 8, 2019

SUBJECT: Resolution accepting the executive summary from Donald Salverda and Associates from the City of Brooklyn Center City Council and Department Heads 2007 Leadership Planning Team Building Retreat and adopting a Mission Statement, Values Statement and 2007-2008 Goals.

Recommendation:

It is recommended that the City Council consider adoption of the subject resolution.

Background:

On January 13th 2007 the City Council and Department Heads met in a full day retreat at the Earle Brown Heritage Center. The purpose of this retreat was to two-fold. First it was a follow-up and continuation of the discussions held in November with members of the 2006 City Council. Secondly it was intended to develop a Mission, Values Statement, Goals and Strategies that would serve as guide for the City's work plan over the next several years.

Having reviewed the draft document at the Council worksession February 12th, consensus was reached on final language for the Mission Statement, Values Statement and Goals. Staff was then directed to submit this information for final City Council approval.

Fiscal Issues:

The adoption of this resolution will have no immediate fiscal consequences. It is fair to say that the implementation of the necessary strategies will have budgetary implications in the future.

C:

YEAR 2010

MEMORANDUM – COUNCIL WORK SESSION

DATE: November 4, 2010

TO: City Council

FROM: Curt Boganey, City Manager

SUBJECT: City Council Retreat

Recommendation:

It is recommended that the City Council consider providing direction to staff regarding setting a date for the annual Council/Staff retreat.

Background:

For the last several years the City Council has met in a full day planning session to review progress and establish goals for the future.

The purpose this agenda item is to establish the following;

1. Does the City Council want to hold a retreat in 2011?
2. What date would the Council like to hold the retreat?
3. What should be the principal agenda Items?

From the perspective of Management, we have found the retreats to be essential to guiding management efforts, and hope they would continue. Since we know that there will be one new Councilmember, It is recommended that some portion of the retreat be devoted to Council Orientation, with the balance devoted to goal setting. In January, I will provide the City Council with year-end reports on Strategic Goal progress. This should reduce the amount of time needed during the goal setting portion of the retreat, leaving time for Council Orientation. If this approach is acceptable to the City Council, a retreat in February or early March would seem to be the best time.

Policy Issues:

Council Goals:

Ongoing goal supported by this consideration;

1. The annual retreat supports all Strategic and Ongoing Goals of the City Council.

YEAR 2012

THE CITY OF BROOKLYN CENTER
COUNCIL AND DEPARTMENT HEADS
2012 LEADERSHIP – PLANNING – TEAM BUILDING RETREAT

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XIX	RECOMMENDED FOLLOW-UP ACTIONS	7
	ATTACHMENTS	8-37

YEAR 2013

City of Brooklyn Center
Council-Staff Retreat
Friday-Saturday, April 5-6, 2013

Agenda

Friday

1:00 Introductions

1:15 Overview of Strategic Planning sessions
- Connection to previous efforts
- Process- Strategic Planning
- Start with Why
- Check-in: Mission and Values

1:45 Organizational Culture and Value Proposition
- Discuss relevance for setting direction, strategy
- Assess current and desired states

2:30 Break

2:45 Organizational Culture and Value Proposition (continued)
- Review and discuss
- Determine organizational value proposition

3:45 Summarize – Next steps and prepare for Saturday

4:00 Adjourn

Saturday

8:30 Brief Recap- Friday's session

8:45 Strategic Planning in detail- outcomes for the day

9:00 Review the Environment- SWOT Analysis
- Hands-on process- sort and prioritize results - SWOT questionnaire
- Identify strategic challenges

10:30 Break

10:45 Establish Strategic Priorities
- Continue SWOT (if necessary)
- Set 4-6 – based upon challenges
- Define- key elements

11:45 Key Outcome Indicators (KOI's)
- Overview process- examples

12:00 Lunch

12:45 Key Outcome Indicators (KOI's)- continued
- Set 2-3 Key Outcome Indicators - each Priority
- Define successful outcomes
- Create targets and measures

1:45 Break

2:00 Key Outcome Indicators (KOI's) – continued
- Continue process
- Small group reports
- Review/discuss/approve

2:45 Summarize the Day- Next Steps
- Staff follow-up-Strategic Initiatives
- Action Plans

3:00 Adjourn

YEAR 2015

City of Brooklyn Center
Council-Staff Leadership Retreat
February 6-7, 2015

Agenda

Friday, Feb. 6

1. Light Dinner- Group gathering 5:30PM
2. Call to Order – Mayor 6:00
3. Overview of Retreat - Craig Rapp
4. Effective Governance- Roles and Responsibilities for High Performance
5. Who We Are- Organizational Culture & Value Proposition (presentation/results/discussion)
6. Wrap-Up, Preview Saturday
7. Adjourn 9:00

Saturday, Feb. 7

1. Light breakfast 8:00/TBD
2. Call to Order - Mayor 8:30AM
3. Brief Review- Friday
4. Where We Are- SWOT Analysis (presentation/results/group work/decisions)
5. Identifying Organizational & Community Challenges
6. Break 10:30
7. Where We're Going- Establishing Strategic Priorities
8. What We Want- Identify Desired Outcomes
9. Lunch 12:15
10. What We Want- Identify Desired Outcomes & Indicators

11. Break 2:30

12. Finalize Key Outcome Indicators

13. Summing Up- Review and Reflect on Retreat

14. Adjourn 4:30

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: State Legislative Priorities

Recommendation:

- It is recommended that the City Council consider discussing, modifying if necessary and indicating consensus on the Initial Brooklyn Center State Legislative Agenda. It is understood that the City Council may add or modify the list of legislative issues before the end of the 91st Minnesota State Legislative Session or no later than May 20, 2019

Background:

The City of Brooklyn Center historically prepares a legislative agenda to be presented and advocated for at the Minnesota State Legislature. The most recent Minnesota legislative session opened on Tuesday, January 8, 2019.

Staff has developed a preliminary list (See Attachment) of state legislative issues to be considered by the Council. The issues were developed based upon:

- Identification of unresolved 2018 Brooklyn Center State Legislative Issues
- Review of the League of Minnesota Cities state policies for 2019
- Review of Metro Cities Policies
- Review of North Metro Mayors Work Plan
- Identification of key issues by departments

Staff leadership identified issues that are critical to the success of the City. Strategies for moving these issues forward may include:

- Partnering with North Metro Mayor's Association
- Meeting directly with MN Senators and Representatives that represent Brooklyn Center
- Dissemination of a legislative literature piece to Legislators

In addition to the priorities, that remaining from 2018 staff is recommending three new policies.

Transportation Funding for Hennepin County using motor vehicle lease sale tax.
Group Home and Housing for Services legislative study.
Raise the tobacco purchase age to 21.

Policy Issues:

Is there a consensus of the Council to accept the Preliminary 2019 Brooklyn Center Legislative Agenda, with

the understanding that the Council may add or modify the list of legislative issues before the end of the 90th Minnesota State Legislative, or before May 20, 2019?

- **Transportation Funding** – The City of Brooklyn Center supports including Hennepin County in the distribution of motor vehicle lease sales tax (MVLST).

Justification - Hennepin County residents contribute substantially to the MVLST but State Law excludes the county from receiving funding from this transportation source. If included, Hennepin County would receive $10.7 million annually for roads, bridges, and pedestrian and bikeway projects. The rationale to exclude Hennepin and Ramsey counties from receiving MVLST formula funds was based on enabling of new taxing authority through the creation of the Counties Transit Improvement Board (CTIB). With CTIB's dissolution in 2017, this rationale for excluding Hennepin and Ramsey counties from receiving MVLST Formula funds has ceased to exist.

- **Group Homes and Housing with Services Establishments** – The City of Brooklyn Center requests the Legislature to examine the impacts of the established regulations, which limit the ability of municipalities to regulate group homes and housing with services establishments to determine if regulations are having a disproportionate effect on low-income communities and communities of color.

Justification our experience is that single-family affordable housing neighborhoods are attractive locations to investors seeking to profit from the establishment Group Home and Housing with Services. The concentration of these homes in low-income neighborhoods reduces home ownership opportunities and wealth accumulation for residents and the concentration of theses business can change the character of the neighborhood.

- **T21 raising the age for purchasing tobacco products to age twenty one-** The City of Brooklyn Center supports a legislative change to increase the law age of tobacco product purchases to twenty-one.

Justification – Brooklyn Center along with several Cities throughout the State of Minnesota has adopted local ordinance regulations increasing the legal age to purchase tobacco products to 21 because overwhelming evidence demonstrates the younger a person is when they begin smoking the more likely they will become addicted and suffer physically resulting from this addiction. Likewise, vaping and other caffeine delivery devises should be regulated, as there is growing evidence that they too are addicting and physically harmful to young people.

CITY of CRYSTAL

4141 Douglas Drive North
Crystal, MN 55422-1696
Main: 763-531-1000 Fax: 763-531-1188

MEMORANDUM

DATE: January 4, 2019

TO: Area Legislators, Mayors, Council Members, and Staff
Brooklyn Center, Brooklyn Park, Golden Valley, New Hope, Robbinsdale and Crystal

FROM: Crystal Mayor Jim Adams

SUBJECT: ***Legislative Breakfast***

You are cordially invited to attend a breakfast meeting with legislators, elected officials, and city staff. We will be discussing legislation that directly affects cities as well as addressing specific concerns within each city. If you have any discussion items to add to the agenda, please contact Terri at terri.fleck@crystalmn.gov or call 763-531-1135. Agenda items can also be sent to City Manager Anne Norris at: anne.norris@crystalmn.gov.

Date: **Saturday, February 9, 2019**
Time: **9:30 a.m.**
Place: **Crystal City Hall** (Community Room in lower level)
4141 Douglas Dr. N.

Rolls, fruit, juice, and coffee will be served. **Please RSVP by Thursday, January 31 (see contact information above).** We look forward to your participation!

Directions:

From Highway 100:
Exit west on 42nd Ave. N. and drive approx. 1/2 mile to Douglas Drive. Turn left on Douglas Drive and then right into parking lot.

From Highway 169:
Exit east on County Road 9/Rockford Rd/42nd Ave. and drive approx. 2.3 miles to parking lot entrance (just before Douglas Drive).

We are located at the SW corner of 42nd Avenue and Douglas Drive

Come in the front doors marked City Hall and go downstairs.

City of Brooklyn Center 2018 Legislative Priorities



January 2018

Administration

- BCLG 01-2018 (Official Notifications / Information Access) – The City of Brooklyn Center supports the State eliminating outdated and unnecessary publication requirements that are no longer relevant or representative of the City's technological capabilities.

  Justification – Currently the State has laws mandating the City establish an "official" or "qualified" newspaper for formal city notifications. The law specifies that cities designate only "one" newspaper, it must be printed in English and if it is a daily newspaper it must be distributed at least five days each week, etc. While the notification standards established in 1949 were well intended, they may not be complete or applicable to contemporary methods of communication or cost efficient.

- BCLG 02-2018 (Election Judge Recruitment and Retention) – The City of Brooklyn Center supports efforts by the State to amend regulations to eliminate the party balance requirement of appointed and hired staff administering absentee balloting prior to Election Day and for city special elections, as well as, authorize college students to get time off from classes if they have been appointed to serve as an election judge.

  Justification – City elections are non-partisan and govern elections in a non-partisan manner. One of the City's strategic priorities is "community engagement across all segments of the City". The City desires to engage as many residents as possible in the election process.

Housing and Development

- BCLG 03-2018 (Building Officials) – The City of Brooklyn Center supports efforts of the State to increase its efforts to train new and diverse building officials, and provide sufficient education to help local officials administer and enforce construction regulations.

  Justification – The City has established city priorities related to resident economic stability and a value of diversity and inclusion. There is a shortage of building officials in the State and greater shortage of building officials of color. Sufficient funding and support by the state would permit the City and other cities to have access to a broader pool of candidates for building official in the future.

Business and Economic Development

- BCLG 04-2018 (Youth Tax Credit) – The City of Brooklyn Center supports efforts by the State to create an internship to work tax credit for organizations hosting young workers in Brooklyn Center. This type of tax credit program exists now, but is targeted to Greater Minnesota.

  Justification – One of the City's strategic priorities is "Resident Economic Stability". This program would provide an incentive for businesses to participate in the BrookLynk Program of the Brooklyn Bridge Alliance.

- BCLG 05-2018 (Workforce Readiness) – The City of Brooklyn Center supports efforts of the State to fully fund Minnesota Job Skills Partnership and other workforce training programs. The City also supports the State providing flexible funding to local workforce councils and pursuing creative programming and funding. Finally, the City supports efforts to design and implement programs designed to address youth employment and workforce readiness.

  Justification – One of the City's strategic priorities is "Resident Economic Stability". This program would provide an incentive for businesses to participate in the BrookLynk Program of the Brooklyn Bridge Alliance. This effort would also, support the City's strategic priority of "Resident Economic Stability".

- BCLG 06-2018 (Tax Increment Financing - TIF) – The City of Brooklyn Center supports efforts of the State to increase the ability of TIF to facilitate redevelopment and housing activities; allow term extensions for redevelopment districts, which are taking longer to develop; amend Minn. Stat. § 469.1763, subdivision 3 to eliminate the "Five-year Rule" for districts that are taking longer to develop; and modify the housing district income qualification level requirements to allow the levels to vary according to individual communities.

  Justification – The City would benefit by having the ability to extend the term for its redevelopment districts, which could have a positive impact on the financial stability and effectiveness of the districts.

- BCLG 07-2018 (Land Recycling and Redevelopment) – The City of Brooklyn Center supports the creation of a "land assembly grant or loan program" to assist cities and economic development authorities assemble small parcels for redevelopment. In addition, the City supports efforts by the State to amend the definition of redevelopment district under TIF Act to include the obsolescence and incompatible land use.

  Justification – Due to the City being a fully developed city, the City would benefit from more resources and greater flexibility of existing economic development tools to redevelopment deteriorated, obsolete and vacant structures and contaminated land.

Financial

- BCLG 08-2018 (Metro Area Fiscal Disparities) - Brooklyn Center was once a net contributor to the Fiscal Disparities pool. Today as a net recipient, Fiscal Disparities is a major factor contributing to the fiscal stability of the City and our taxpayers. Without Fiscal Disparities, the property tax burden in Brooklyn Center would escalate dramatically, perhaps more than 25%. We strongly encourage continued legislative support for Metro Area Fiscal Disparities.

- BCLG 09-2018 (Sales Tax Exemption Simplification) - We advocate for a way to simplify the utility of the current sales tax exemption for construction materials. The process for using the current sales tax exemption on construction is so complicated, risky, and burdensome to contractors and cities that we are aware of no city that has decided to use this exemption. In Brooklyn Center, we estimate savings of $300-$400 thousand annually for our neighborhood street and utility construction projects if the sales tax exemption was viable.

- BCLG 10-2018 (Property Tax Relief) – The City of Brooklyn Center supports efforts of the State increase property tax relief for property owners experiencing high tax burdens due to property tax shifts.

  Justification – The City has experienced significant shifts in tax capacity growth from commercial to residential properties throughout the years of the most recent economic recession. As a result, residential property owners have endured a tax shift burden. We expect this trend to continue for the coming years as housing values continue to recover and commercial and industrial market values normalize.

- BCLG 11-2018 (Local Government Aid - LGA) – The City of Brooklyn Center supports the existing LGA funding formula as an appropriate mechanism to distribute LGA and opposes special funding using LGA funds.

  Justification – LGA has been cut for many years. The City's budget stability continues to be dependent on LGA funding. Any changes in the formula or siphoning of funds from the overall pool for special projects may be detrimental to the City's financial stability.

Law Enforcement & Public Safety

- BCLG 12-2018 (Juveniles in Municipal Jails) – The City of Brooklyn Center supports efforts by the State to clarify state statute that would allow juveniles to be held for questioning and booking in the City jail for up to six hours.

  Justification – The City would have more of an opportunity and time to work with a juvenile to resolve or remedy their situations prior to being transported to Hennepin County Jails should the state increase the max time juveniles may be held in a licensed municipal jail.

- BCLG 13-2018 (21st Century Policing) – The City of Brooklyn Center supports action by the State to increase funding for peace officer training, peace officer wellness activities, and grants to the cities to deploy technologies such as dash and body worn cameras, all of which align with the President's Task Force 21st Century Policing Report.

  Justification - The City initiated efforts to implement 21st Century Policing soon after the report was published. The City continues to develop and train peace officers in accordance with the report. Funding support from the State would help leverage and stretch the use of City resources. To date the City has taken on the expense of such efforts at the City's expense.

Transportation

- BCLG 14-2018 (Transportation Funding) – The City of Brooklyn Center supports the State providing more funding, including bonding, for improvements to all components of the transportation system. The City specifically supports The Blue Line Light Rail Extension. In addition the City's highest State transportation priority is the much needed improvements to and conversion of TH 252 to a freeway with the addition of MnPASS lanes.

  Justification – The City has various transportation needs ranging from constructing highway overpasses to upgrading Trunk Highway 252 to a freeway, as well as, transit related needs. Additional funding by the legislature would permit the City to access various funding sources from the Minnesota Department of Transportation for city projects. Improvements and conversion of Trunk Highway 252 to a freeway would benefit city residents and regional travelers with improved safety and less congestion on a corridor that lays claim to 2 of the top 10 and 5 of the top 100 intersections in statewide crash cost rankings.

Motor Vehicle Lease Sales Tax

HENNEPIN COUNTY
MINNESOTA

Hennepin and Ramsey counties deliberately excluded from metro-wide transportation funding

Minnesota's general sales tax applies to long-term motor vehicle leases — the motor vehicle lease sales tax (MVLST). Hennepin County residents contribute substantially to the MVLST but the county is excluded by state law from receiving funding from this transportation source. If included, Hennepin County would receive **$10.7 million** annually for roads, bridges, and pedestrian and bikeway projects.

Transportation funds critical to all counties including Hennepin

The economic strength and competitiveness of our state and region depend on an effective, efficient and well-maintained transportation system. County roads and bridges are a critical component of the state and regional transportation system, and no county should be excluded from a key revenue source for keeping pace with the escalating costs of maintaining our transportation infrastructure.

Previous rationale for Hennepin exclusion has ceased to exist

In 2006, voters overwhelmingly supported a constitutional amendment to dedicate the MVLST to transportation. Subsequent legislative action directed the MVLST to transportation but excluded Hennepin and Ramsey counties.

The rationale to exclude Hennepin and Ramsey counties from receiving MVLST formula funds was based on enabling of new taxing authority through the creation of the Counties Transit Improvement Board (CTIB). With CTIB's dissolution in 2017, this rationale for excluding Hennepin and Ramsey counties from receiving MVLST formula funds has ceased to exist.

MVLST funds should be distributed to all seven metro counties

In FY2018, MVLST revenues are being distributed according to the following formula:

- 11% Highway User Tax Distribution Fund (HUTDF)
- 13% MN Transportation Fund (Local Bridges)
- 38% Greater MN Transit
- 38% County State Aid Highway (CSAH) to five metro counties: Anoka, Carver, Dakota, Scott, Washington

Contacts

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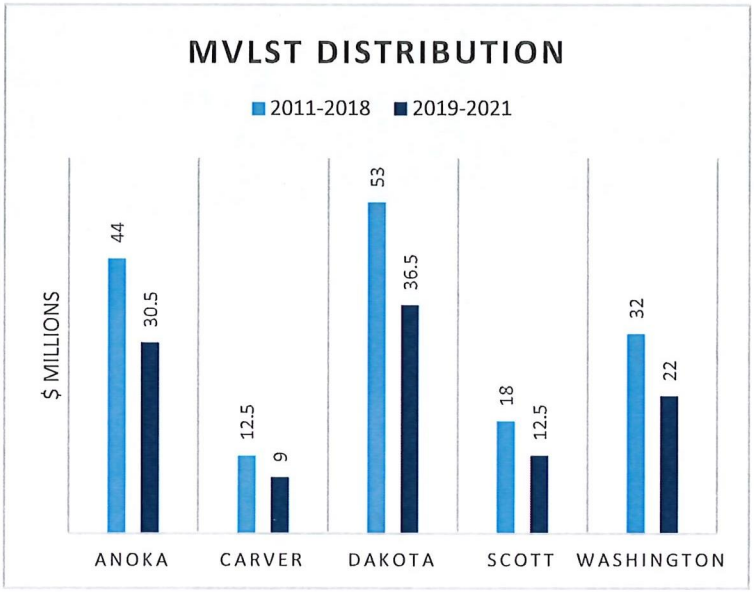
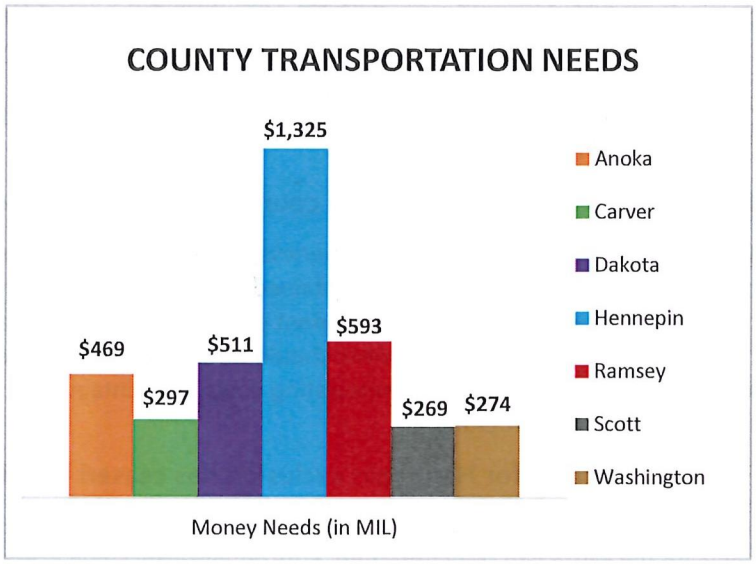
October 2018

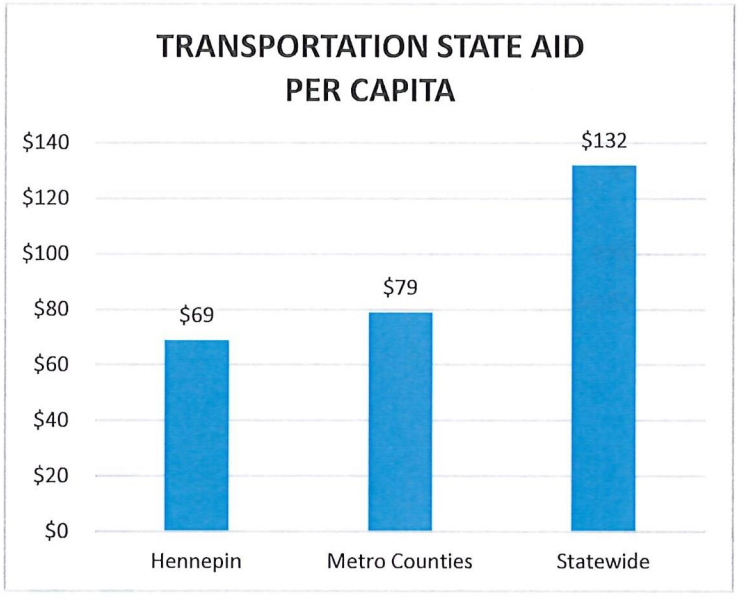


The 38% of revenue distributed to the CSAH fund is allocated to *only* five metro counties, Anoka, Carver, Dakota, Scott and Washington, and *excludes* Ramsey and Hennepin. The MVLST is distributed proportionally based on the population in each of the five eligible metro counties. In FY2018, nearly **$40 million** was generated and distributed to the five metro counties. If FY2018 MVLST funds were distributed to all seven metro counties, Hennepin County's share would have been approximately **$10.7 million**. Between 2011 and 2021, an estimated **$270 million** in MVLST revenues will be distributed to Anoka, Carver, Dakota, Scott, and Washington counties for use on their county roads. Since 2011, approximately **$160 million** in MVLST revenues have been distributed to those five counties, and it is anticipated that an additional **$110 million** will be provided by 2021.

Hennepin needs MVLST funding for essential road and bridge infrastructure

Hennepin County has more than double the center line miles, more than four times the signalized intersections, and serves twice the vehicle miles traveled of any of the five counties receiving MVLST revenues. Hennepin County's 25-year construction needs exceed **$1.3 billion**, based on the 2018 MnDOT CSAH Distribution Report. When compared to the five counties receiving the MVLST, our need is equal to 73% of the five other counties combined. MnDOT's estimated Money Needs for each of the seven metro counties is shown in the chart at right.





More transportation funds generated in Hennepin should stay in Hennepin

According to the Minnesota House Research December 2017 State Aid Report, Hennepin County generated approximately **$480 million** from the Motor Vehicle Sales Tax, Registration Tax and Fuels Tax combined in 2014. In the same year, Hennepin County and its 45 municipalities received **$83.4 million** in the form of County and Municipal Highway State Aid. Thus, about **$400 million per year** of transportation funds generated within Hennepin County went to fund statewide priorities.

Currently, Hennepin County receives **$69 per capita** in the form of County and Municipal Highway State Aid, compared to **$79 per capita** metro-wide and **$132 per capita** statewide.

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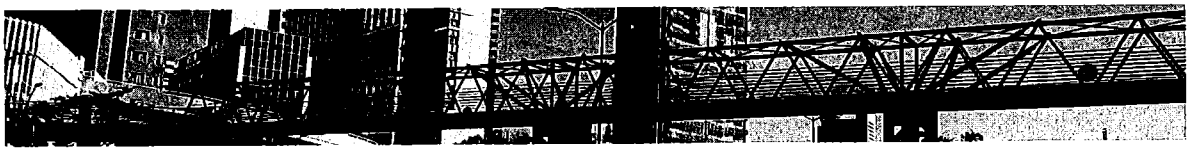
PROGRAMS & INITIATIVES COALITIONS CONTACT US

Annual Work Plan



2018 Legislative Action Plan

Transportation Funding

- Work with the Minnesota Department of Transportation, legislative leadership and transportation committees,
  Governor's administration, Metropolitan Council, Minnesota Transportation Alliance and key congressional
  members and staff to secure increased transportation funding.

Transportation Advocacy

- Support the regional efforts of:
  - North Metro I-35W Corridor Coalition MnPASS Lane Project between Minneapolis and Blaine
  - North Trunk Highway 65 Coalition

- Highway 10 Workgroup
- 169 Coalition to relieve congestion on Highway 169 in the North Metro
- Highway 252 Conversion Group
- Connect Blue Line Now! Coalition to address barriers and begin construction on Blue Line Light Rail (Bottineau) project
- Trunk Highway 65–Assist Blaine to provide significant capacity enhancements including upgrading major intersections.
- Highway 169 at 101st Avenue, Brooklyn Park–Assist Brooklyn Park, Maple Grove, and Champlin to secure funding for an interchange and other improvements.
- Trunk Highway 10–Assist Coon Rapids and Anoka to secure funding to construct a third lane between Hanson Boulevard and 7th Avenue in Anoka. Assist Ramsey and Anoka to secure funding to construct all recommended Trunk Highway 10 Access Planning Study improvements.
- Trunk Highway 610–Assist Maple Grove to secure funding to complete 610 and advocate for improvements through the Fish Lake split and expanding capacity on I-94 from Maple
  Grove to the west. Assist Coon Rapids to secure funding for full interchange on 610 in Coon Rapids
- Trunk Highway 252–Work with Brooklyn Center, Brooklyn Park, Hennepin County, the Minnesota Department of Transportation and the Metropolitan Council to resolve transportation system safety and congestion issues.
- Assist North Metro cities to secure funding for County State Aid Highway (CSAH) reconstruction/improvement projects.Transportation Funding
- Work with the Minnesota Department of Transportation, legislative leadership and transportation committees, Governor's administration, Metropolitan Council, Minnesota Transportation Alliance and key congressional members and staff to secure increased transportation funding.

Rail Crossings and Rail Safety

- Support funding for modernization and separation of rail-vehicle traffic as a critical matter of public safety and congestion relief along all major rail lines in the North Metro.
- Assist Ramsey to secure funding for road/rail separation at Ramsey and Sunfish Lake Boulevards along the BNSF main line, adjacent to US Highway 10.
- Assist MnDOT to secure funding for road/rail separation along the BNSF main line at Trunk Highway 47 in Anoka.

Fiscal Policy

- Work with the NMMA legislative delegation, League of Minnesota Cities, Metro Cities, Anoka County, Ramsey County and other stakeholders to be sure the collective North Metro voice is heard and ensure that the Local Government Aid and Metro Area Fiscal Disparities programs remain intact. Advocate for NMMA perspectives in debates over comprehensive tax reform proposals.
- Support and advocate for TIF legislation sought by member cities for and support the use of TIF as a tool for cities to promote economic development.
- Continue to join with other county and city organizations opposing reverse referendum.
- Oppose legislative efforts to restrict city use of, or add a reverse referendum process, to the gas and electric franchise fee statutes.

Governance

- Work with the League of Minnesota Cities, Metro Cities and other local government partners in a collaborative manner to advance key local governmental legislative objectives.
- Support Metropolitan Council changes, including staggered terms, elected city officials' significant participation in nominating Metropolitan Council members, and increased transparency in the appointment process.
- Engage NMMA Community Partners in legislative efforts to more effectively carry the NMMA message to elected officials and the governor's administration.

- Conduct legislative candidate forums in NMMA member city districts to inform candidates on NMMA issues and to assist voters in determining their choices.

Water

- Support efforts of the NMMA Water Work Group to establish policy positions on water issues.
- Engage NMMA stakeholders to endorse and promote regional water supply facilities.
- Assist Champlin to secure funding for the restoration of the Champlin Mill Pond Deep Water Habitat/Fishery.
- Monitor the Minnesota Pollution Control Agency and potential regulation changes which would make it more difficult for cities to develop closed dump sites.

Additional Issues

- PUBLIC SAFETY: Support the expansion of the North Metro Law Enforcement Training Facility in Maple Grove.
- HOUSING: Support consistent application of state housing financing programs to help facilitate local housing goals in addition to state goals.
- ENVIRONMENT: Support the Minnesota Pollution Control Agency and Andover's efforts to secure funding for removing the hazardous waste pit at the Waste Disposal Engineering (WDE) Landfill.
- ELECTIONS: Support legislation creating early voting opportunities that create administrative and financial efficiencies for local governments.
- REGIONAL RECREATION: Assist in securing funding for a competition sized swimming pool in New Hope.

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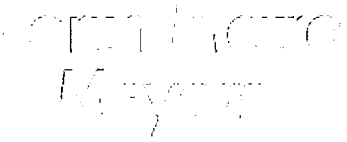

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METRO CITIES

Association of Metropolitan Municipalities

Legislative Policies

January 2019

Metro Cities

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Municipal Revenue & Taxation

1-A State and Local Fiscal Relationship

A functional state and local fiscal relationship must emphasize adequacy, equitability, sustainability and accountability for public resources, and effective communication among the state, cities, and the public on the roles and responsibilities of state and local governments. An effective partnership must also emphasize practices that strengthen collaboration and partnership between the state and local units of government.

Services provided by cities are traditionally funded through a combination of property taxes, fees/charges and state aids. Increasingly, cities are bearing more of the costs for services that have historically been the responsibility of the state.

Metro Cities supports a strong state and local fiscal partnership that emphasizes the following principles:

- **Strong financial stewardship and accountability for public resources that emphasizes maximizing efficiencies in service delivery and effective communication between the state and local units of government, and to the public, about state and local roles and responsibilities;**

- **Certainty, predictability and reliability in revenue sources including the property tax and local government aids, and dedicated funds to meet specific local government needs. Metro Cities opposes the diversion of such dedicated funds to help balance state budgets;**

- **Full state funding to cover mandates enacted by the state, and flexibility for local governments in implementing state mandates to ensure local costs are minimized;**

- **The need for local decision-making authority by local elected officials with regard to the terms and conditions of employment for local government employees, including compensation, recognition, and benefit decisions;**

- **Adequate revenue sources available to cities that allow the needs of cities to be met, citizens to receive adequate services at similar levels of taxation, and that maintain our state's economic vitality and competitiveness;**

- **Adequate and timely notification regarding new legislative programs or modifications to existing state programs or policies to allow cities sufficient time to plan for implementation, and any effects on local budgeting processes;**

- **The concept of performance measuring, but opposition to using state established**

local performance measurements to determine the allocation of state aids to local governments, or to deny local governments the authority to establish their own budgets and levies, as such measurements do not account for varying local needs and circumstances.

1-B Revenue Diversification and Access

Metro Cities supports a balanced and diversified revenue system that acknowledges diverse city characteristics, needs and revenue capacities, and allows for greater stability in revenues. Any diminished level in the provision of state aids creates severe challenges for many cities in the provision of public services and increased reliance on the property tax.

Metro Cities supports greater access to other tax and revenue sources and the ability of cities to impose a local option sales tax for public improvements without the need for special legislation.

Metro Cities supports current laws that provide for municipal franchise fee authority, and opposes statutory changes such as reverse referendum requirements or other constraints that would reduce local authority and flexibility for establishing, amending, or renewing franchise fees and interfere with local public processes and goals for establishing such fees.

Metro Cities supports having local sales tax referendums conducted at a general or special election. The Legislature should recognize the equity considerations involved with local sales taxes, and continue to provide aids to cities that have high needs, overburdens and/or low fiscal capacity.

1-C Restrictions on Local Government Budgets

Metro Cities strongly opposes levy limits, reverse referenda, super majority requirements for levy and valuation freezes, or other restrictions on local government budgeting and taxing processes. Such restrictions undermine local budgeting and taxing processes, planned growth, and the relationship between locally elected officials and their residents by allowing the state to decide the appropriate level of local taxation and services, despite varying local conditions and circumstances.

1-D Budget and Financial Reporting Requirements

State laws require cities to prepare and submit or publish numerous budget and financial reports. These requirements often create significant costs to cities, and some requirements result in duplication. Additional reporting requirements should have a clearly defined statement of public purpose and need not covered under existing requirements and balance the need for additional information with the costs of compiling and submitting the information.

Considering the numerous existing reporting requirements, Metro Cities supports reducing the number of mandated reports. Metro Cities supports efforts to consolidate municipal government financial reporting requirements in the Office of the State Auditor, including

an electronic submission alternative to any remaining paper filing requirements, and to authorize the use of web publication where newspaper publication is currently required.

1-E Local Government Aid (LGA)

Metro Cities supports Local Government Aid (LGA) as a means of ensuring that cities remain affordable places to live and work while meeting the basic public service demands of residents and businesses.

Metro Cities' policies recognize that the state's prosperity and vitality depend significantly upon the strength of the metropolitan region. Metro Cities supported 2013 statutory modifications to the LGA program to help better address the needs of cities across the state, and of metro cities in their support of the state's economic growth and supports further examination of the LGA formula to ensure it is continuing to address these needs.

To ensure appropriation levels are adequate to meet LGA program objectives, Metro Cities supports increasing the LGA appropriation to address cities' unmet need as defined by the LGA formula as well as increases in the LGA appropriation to account for inflation. By way of reference, the total need identified in the LGA formula for 2019 is estimated at $814.6 million, whereas the current funding is set at $534.4 million, putting the remaining need at $280.2 million.

Metro Cities supports formula-based allocations for increases to the LGA appropriation, and opposes freezes of the LGA appropriation, or reductions of LGA for balancing state budget deficits. Metro Cities also opposes artificial limits or reductions that single out specific cities, and further opposes using LGA as financial leverage to influence particular activities and policy decisions at the local level.

1-F State Property Tax Relief Programs

Metro Cities supports state funded property tax relief programs paid directly to homestead property taxpayers such as the "circuit breaker" program and enhanced targeting for special circumstances. Metro Cities also supports the renter's credit program. Metro Cities supports an analysis of the state's property tax relief programs to determine their effectiveness and equity in providing property tax relief to individuals and families across the state.

Metro Cities supports efforts by the Minnesota Department of Revenue to expand outreach and notification efforts about state property tax relief programs to homeowners, and notifications to local units of government to support such efforts. Metro Cities also supports legislative modifications to make tax relief payments to taxpayers automatic.

Metro Cities supports the use of the Department of Revenue's "Voss" database to link income and property values, and the consideration of income relative to property taxes paid in determining eligibility for state property tax relief programs. Updates to the database

should occur in a timely manner and data reviewed periodically to ensure the database's accuracy and usefulness.

1-G Property Valuation Limits/Limited Market Value

Metro Cities opposes the use of artificial limits in valuing property at market for taxation purposes, since such limitations shift tax burdens to other classes of property and create disparities between properties of equal value.

1-H Market Value Homestead Exclusion Program

The Market Value Homestead Exclusion Program (MVHE) provides property tax relief to qualifying homesteads, through reductions in property tax values, which shifts property taxes within jurisdictions. The MVHE replaced a former Market Value Homestead Credit Program, which provided credits on local government tax bills to qualifying properties, with reimbursements provided by the state to local governments.

Metro Cities opposes restoration of the former Market Value Homestead Credit, as reimbursements to local governments were inconsistent, and encourages further study of the exclusion program, with input by city officials, to determine the program's overall efficacy and its effects on local tax bases.

1-I Metropolitan Area Fiscal Disparities Program

The Metropolitan Area Fiscal Disparities Program, enacted in 1971, was created for the purposes of:

- providing a way for local governments to share in the resources generated by the growth of the metropolitan area without removing existing resources;
- promoting orderly development of the region by reducing the impact of fiscal considerations on the location of business and infrastructure;
- establishing incentives for all parts of the area to work for the growth of the area as a whole;
- helping communities at various stages of development; and
- encouraging protection of the environment by reducing the impact of fiscal considerations to ensure protection of parks, open space and wetlands.

Metro Cities supports the Fiscal Disparities Program. Metro Cities opposes any diversion from the fiscal disparities pool to fund specific state, regional or local programs, goals or projects as such diversions contradict the purposes of the program.

Legislation that would modify or impact the fiscal disparities program should only be considered within a framework of comprehensive reform efforts of the state's property tax, aids and credits system. Any proposed legislation that would modify or impact the fiscal disparities program must be evaluated utilizing the criteria of fairness, equity, stability, transparency and coherence in the treatment of cities and taxpayers across the metropolitan region, and must continue to serve the program's intended purposes.

Metro Cities opposes legislation that would allow for capturing and pooling growth in residential tax capacity to fund specific programs or objectives.

Further studies or task forces to consider modifications to the fiscal disparities program must include participation and input from metropolitan local government representatives.

1-J Constitutional Tax and Expenditure Limits

Metro Cities strongly opposes including tax and expenditure limits in the state constitution, as such limits eliminate flexibility by the Legislature or local governments to respond to unanticipated critical needs, emergencies, or fluctuating economic situations.

When services such as education, public safety and health care require increased funding beyond the overall limit, other publicly funded services potentially stand to receive inadequate resources. Constitutional limits result in reduced revenue bases during times of economic downturn and the inability to recover to previous service levels when economic prosperity returns.

1-K State Property Tax

The state levies a property tax on commercial/industrial and cabin property. **Since cities' only source of general funds is the property tax, Metro Cities opposes extension of the state property tax to additional classes of property. Metro Cities opposes using the state property tax to fund specific programs or objectives generally funded through state income and sales tax revenue.**

In the interest of increasing transparency, Metro Cities supports efforts to have the state provide information on the property tax statement regarding the state property tax. Metro Cities opposes exempting specific classes of property under the tax as such exemptions shift the costs of the tax onto other classes of property.

1-L Class Rate Tax System

Metro Cities opposes elimination of the class rate tax system or applying future levy increases to market value since this further complicates the property tax system.

1-M Regional Facility Host Communities

Municipalities hosting regional facilities (such as utilities, landfills or aggregate mining) incur costs and community effects such as environmental damage or lost economic development opportunities. Communities should be compensated to accommodate the effects of these facilities that provide benefits to the region and state. **Metro Cities supports legislative efforts to offset the negative impacts of these facilities and activities on host communities.** Metro Cities would prefer that cities and townships be allowed to collect a host fee that may be adjusted when state decisions impact those fees.

1-N Sales Tax on Local Government Purchases

Metro Cities supported the 2013 reinstatement of the sales tax exemption for purchases of goods and services made by cities. The reinstatement enacted in 2013 does not apply to all local government purchases.

To ensure that citizens receive the full benefit of this exemption, the law should treat purchases of all local government units the same, including purchases made by special taxing districts, joint powers entities, or any other agency or instrumentality of local government.

Metro Cities supports granting an extension of the motor vehicle sales tax exemption to all municipal vehicles that are used for general city functions and are provided by governmental entities. Currently, only certain vehicles, including road maintenance vehicles purchased by townships, and municipal fire trucks and police vehicles not registered for use on public roads, are exempt from the MVST.

Metro Cities supports simplifying the process on the exemption for construction materials that is complex and cost ineffective, or converting the process to a refund program.

1-O City Revenue Stability and Fund Balance

Metro Cities opposes state attempts to control or restrict city fund balances. These funds are necessary to maintain fiscal viability, meet unexpected or emergency resource needs, purchase capital goods and infrastructure, provide adequate cash flow and maintain high level bond ratings.

1-P Public Employees' Retirement Association (PERA)

Metro Cities supports employees and cities sharing equally in the cost of necessary contribution increases and a sixty percent employer/forty percent employee split for the PERA Police and Fire Plan. Metro Cities also supports state assistance to local governments to cover any additional contribution burdens placed on cities over and above contribution increases required by employees. Cities should receive sufficient notice of these increases so that they may take them into account for budgeting purposes.

Metro Cities opposes benefit improvements for active employees or retirees until the financial health of the PERA General Plan and PERA Police and Fire Plan are restored.

Metro Cities supports modifications to help align PERA contributions and costs, and reduce the need for additional contribution increases, including a modification of PERA eligibility guidelines to account for temporary, seasonal and part-time employment situations, the use of pro-rated service credit and a comprehensive review of exclusions to simplify eligibility guidelines. Further employer contribution rate increases should be avoided until other cost alignment mechanisms are considered.

Metro Cities supports cities and fire relief associations working together to determine the best application of State Fire Aid. Flexibility in the application of State Fire Aid, where combination departments exist, will ensure that fire services can be provided in the most cost effective means possible.

Regarding police pension contributions, Metro Cities supports a proactive review of factors contributing to the financial status of police and fire pension plans, to ensure that structural adjustments are considered in conjunction with potential increases in employee and employer contribution rates. Specifically, an area that could be considered is contractual overtime impacts on pension levels.

1-Q State Program Revenue Sources

Metro Cities opposes any attempt by the state to finance programs of statewide value and significance, that are traditionally funded with state revenues, with local revenue sources such as municipal utilities or property tax mechanisms. Statewide programs serve important state goals and objectives, and should be financed through traditional state revenue sources such as the income or sales tax.

Metro Cities further opposes substituting traditionally state funded programs with funding mechanisms that would disparately affect taxpayers in the metropolitan area.

1-R Post-Employment Benefits

Metro Cities supported statutory changes that allow local governments to establish trusts from which to fund post-employment health and life insurance benefits for public employees, with participation by cities on a strictly voluntary basis, in recognition that cities have differing local needs and circumstances. Cities should also retain the ability to determine the level of post-employment benefits to be provided to employees.

1-S Health Care Insurance Programs

Metro Cities supports legislative efforts to control health insurance costs, but opposes actions that undermine local flexibility to manage rising insurance costs. Metro Cities encourages a full examination of the rising costs of health care and the impacts on city employers and employees. **Metro Cities also supports a study of the fiscal impacts to both cities and retirees of pooling retirees separately from active employees.**

1-T State Budget Stability

Metro Cities strongly supports a state revenue system that provides for stability, flexibility and adequacy in the system, reduces the volatility of state revenues and improves the long-term balance of state revenues and expenditures. Metro Cities supports a statutory budget reserve minimum that is adequate to manage risks and fluctuations in the state's tax system and a cash flow reserve account of sufficient size so that the state can avoid short term borrowing to manage cash flow fluctuations.

Metro Cities also supports an examination of the property tax system and the relationships between state and local tax bases, with an emphasis on state budget cuts and effects on property taxes. State budget deficits must be balanced with statewide sources and must not further reduce funding for property tax relief programs and aids to local governments that result in local governments bearing more responsibility for the costs of services that belong to the state.

1-U Taxation of Electronic Commerce

Metro Cities supports efforts to develop a streamlined sales and use tax system to simplify sales and use tax collection and administration by retailers and states. Metro Cities supports policies that encourage remote retailers to collect and remit state sales taxes in states that are complying with the Streamlined Sales and Use Tax Agreement.

Metro Cities opposes legislation that allows accommodation intermediaries such as online travel companies a tax exemption that terminates obligations to pay hotel taxes to state and local governments, or otherwise restricts legal actions by states and localities. In 2011 the Legislature clarified that these services are subject to state sales tax. **Metro Cities supports additional statutory changes to further clarify that all lodging taxes, whether administered by the state or locally, apply to total charges, including charges for services provided by accommodation intermediaries.**

1-V Payments for Services to Tax Exempt Property

Metro Cities supports city authority to collect payments from tax exempt property owners to cover the costs of services to those entities, similar to statutory authority for special assessments. Metro Cities opposes legislation that would exempt nonprofit entities from paying user fees and service charges.

1-W Proceeds from Tax Forfeited Property

Metro Cities supports changes to state laws governing the proceeds for tax forfeited properties. Currently, counties can recover administrative costs related to a property before other allocations are made and the law allows for the county to recoup a percentage of assessment costs once administrative costs are allocated. The result is often no allocation or a very low allocation, and usually insufficient level of proceeds available for covering special assessments, unpaid taxes and fees to cities. State processes addressing tax-forfeited properties

can have implications for local land use plans and requirements and can result in unexpected and significant fiscal impacts on local communities. The current process also does not require the repayment of unpaid utility charges, or building and development fees.

Metro Cities supports statutory changes that balance repayment of unpaid taxes and assessments, utility charges and other fees and that more equitably allocates the distribution of proceeds between counties and cities.

1-X MN Licensing and Registration System

Issues at the state government level associated with the rollout of the new MN Licensing and Registration System (MNLARS) have caused significant disruptions to services provided by local deputy registrars and resulted in unanticipated costs to registrars. In some cases, local offices are being required to rely on other local revenues, such as the property tax, to manage normal expenses due to unresolved glitches in the system and the shift from the state to the local level for additional processing time. The ongoing challenges with the system also create a high potential for negative public perceptions regarding local government services, on an issue over which local governments have no ability to control.

Metro Cities supports actions by the state to expedite necessary corrections to the MNLARS system and supports funding to compensate local deputy registrars for unanticipated costs associated with implementation and a shifting of per-transaction processing burdens. Metro Cities further supports a consideration of increases to existing fee levels, which are set in state statutes, to ensure that local deputy registrars can sufficiently function and meet continually evolving local registrar service needs.

2-A Mandates, Zoning & Local Authority

To serve their local citizens and communities, city officials must have sufficient local control and decision-making authority. **Metro Cities supports local decision-making authority and opposes statutory changes that erode local authority and decision making.**

Minnesota State Statutes 462.357, Subdivision 1, provide cities authority to regulate and set local ordinances for zoning. **Metro Cities supports existing state laws that provide for this authority.**

Metro Cities supports statutory changes that give local officials greater authority to approve or deny variances to allow flexibility in responding to the needs of the community. Metro Cities also supports the removal of statutory barriers to uniform zoning ordinance amendment processes for all cities, regardless of city size classification.

Metro Cities opposes the imposition of legislative mandates that increase local costs without a corresponding state appropriation or funding mechanism. Unfunded mandates potentially increase property taxes and impede cities' ability to fund traditional service needs.

To allow for greater collaboration and flexibility in providing local services, Metro Cities encourages the removal of barriers to coordination between cities and other units of government or entities.

2-B City Enterprise Activities

Creation of an enterprise operation allows a city to provide a desired service while maintaining financial and management control. The state should refrain from infringing on this ability to provide and control services for the benefit of community residents.

Metro Cities supports cities having authority to establish city enterprise operations in response to community needs, local preferences or state mandates, or that help ensure residents' quality of life.

2-C Firearms on City Property

Cities should be allowed to prohibit handguns and other weapons in city-owned buildings, facilities and parks and to determine whether to allow permit-holders to bring guns into municipal buildings, liquor stores, city council chambers and city sponsored youth activities. It is not Metro Cities' intention for cities to have the authority to prohibit legal weapons in parking lots, on city streets, city sidewalks or on locally approved hunting land.

Metro Cities supports local control to allow or prohibit handguns and other weapons on

city-owned property.

2-D 911 Telephone Tax

Public safety answering points (PSAPs) must be able to continue to rely on state 911 revenues to pay for upgrades and modifications to local 911 systems, maintenance and operational support and dispatcher training.

Metro Cities supports state funding for technology and training necessary to provide the number and location of wireless and voice over internet protocol (VoIP) calls to 911 on computer screens and transmit that data to police, fire and first responders.

2-E 800 MHz Radio System

Metro Cities urges the Legislature to provide cities with the financial means to obtain required infrastructure and subscriber equipment (portable and mobile radios) as well as provide funding for operating costs, since the prime purpose of this system is to allow public safety agencies and other units of government the ability to communicate effectively.

Metro Cities supports the work of the Metropolitan Emergency Services Board (previously the Metropolitan Radio Board) in implementing and maintaining the 800 MHz radio system, as long as cities are not forced to modify their current systems or become a part of the 800 MHz Radio System unless they so choose.

2-F Building Codes

Thousands of new housing units are constructed annually in the metropolitan area.

Metro Cities supports an equitable distribution of fees from the Construction Code Fund, with proportional distribution based on the area of enforcement where fees were received. Metro Cities further supports efforts by the state, cities and builders to collectively identify appropriate uses for the fund, including education, analysis of new materials and construction techniques, building code updating, building inspector training, and development of performance standards and identification of construction "best practices."

Metro Cities supports including the International Green Construction Code as an optional appendix to the State Building Code to allow cities to utilize appropriate parts of those guidelines in their communities. Metro Cities also supports adopting the international energy conservation code to the state building code without amendments. Metro Cities does not support legislative solutions that fail to recognize the interrelationships among builders, state building codes and cities. Metro Cities supports efforts to increase awareness of the potential impacts and benefits of requiring sprinklers in new homes and townhouses and supports discussion and the dissemination of information on these impacts via the code adoption process through the Department of Labor and Industry.

2-G Administrative Fines

Traditional methods of citation, enforcement and prosecution have met with increasing costs to local units of government. The use of administrative fines is a tool to moderate those costs. **Metro Cities supports the administrative fine authority that allows cities to issue administrative fines for defined local traffic offenses and supports further modifications to enhance functionality of this authority. Metro Cities continues to support cities' authority to use administrative fines for regulatory ordinances such as building codes, zoning codes, health codes, and public safety and nuisance ordinances.**

Metro Cities supports the use of city administrative fines, at a minimum, for regulatory matters that are not duplicative of misdemeanor or higher-level state traffic and criminal offenses. Metro Cities also endorses a fair hearing process before a disinterested third party.

2-H Residential Programs

Sufficient funding and oversight is needed to ensure that residents living in residential programs have appropriate care and supervision and that neighborhoods are not disproportionately impacted by high concentrations of residential programs. Historically, federal and state laws have discouraged the concentration of residential group homes so as not to promote areas that reinforce institutional quality settings.

Under current law, operators of certain residential programs are not required to notify cities when they intend to purchase single-family housing for this purpose. Cities do not have the authority to regulate the locations of residential programs. Cities have reasonable concerns about high concentrations of these facilities in residential neighborhoods, and additional traffic and service deliveries surrounding these facilities when they are grouped closely together. Municipalities recognize and support the services residential programs provide. However, cities also have an interest in preserving balance between residential programs and other uses in residential neighborhoods.

Providers applying to operate residential programs should be required to notify the city when applying for licensure to be informed of local ordinance requirements as a part of the application process. Licensing agencies should be required to notify the city of properties receiving licensure to be operated as residential programs.

Metro Cities supports statutory modifications to require licensed agencies and licensed providers that operate residential programs to notify the city of properties being operated as residential programs. Metro Cities also supports the establishment of appropriate non-concentration standards for residential programs, to prevent clustering, and supports enforcement of these rules by the appropriate county agencies.

2-I Annexation

Attempts have been made in recent years to reduce tensions between cities and townships in

annexations. A Municipal Boundary Adjustment Task Force worked to develop recommendations regarding best practices annexation training for city and township officials to better communicate and jointly plan potential annexations. While the task force defined differences between cities and townships, no significant advancements were made in creating best practices.

Metro Cities supports continued legislative efforts to develop recommendations regarding best practices and annexation training for city and township officials to better communicate and plan for potential annexations. Further, Metro Cities supports substantive changes to the state's annexation laws that will lead to better land use planning, energy conservation, greater environmental protection, fairer tax bases, clarification of fee reimbursement and fewer conflicts between townships and cities. Metro Cities also supports technical annexation changes that are agreed to by cities and townships.

2-J Statewide Funding Sources for Local Issues with Regional Impact

Many issues including but not limited a metropolitan area groundwater monitoring network, emerald ash borer management and the cleanup of storm-water retention ponds, come with significant local costs, and have effects that reach beyond municipal boundaries.

Metro Cities supports the availability of statewide funding sources to address local issues that have regional or statewide significance or are caused by state or regional actions.

Metro Cities opposes any requirement to enact ordinances more restrictive than state law in exchange for access to these funds.

2-K Urban Forest Management Funding

Urban forests are an essential local infrastructure component. Dutch elm disease, oak wilt disease, drought, storms, and emerald ash borer threaten public investments in trees and controlling these issues can be greatly consequential for city budgets. The Minnesota Department of Natural Resources, through its Urban and Community Forestry program, and the Minnesota Department of Agriculture, through its Shade Tree and Invasive Species program, have regulatory authority to direct tree sanitation and control programs. Although these programs allow for addressing some tree disease, pest, and other problems, funding has been inadequate to meet the need of cities to build capacity for tree programs and respond to catastrophic problems.

Cities share the goal of the state's Re-leaf Program—promoting and funding the inventory, planning, planting, maintenance, and improvement of trees in cities throughout the state. In addition, economic and environmental gains for storm water management, climate change mitigation, air quality management, tourism, recreation, and other benefits must be protected from tree loss. A lack of timely investment in urban forests costs cities significantly more in the long run.

Cities are facing immediate costs for the identification, removal, replacement, and treatment of

emerald ash borer (EAB) as it spreads across the state. The state has no program to assist cities in covering those expenses.

Metro Cities supports funding for a state matching grant program to assist cities with building capacity for urban forest management and meeting the costs of preparing for, and responding to, catastrophic urban forest problems. Specifically, direct grants to cities are desperately needed for the identification, removal, replacement, and treatment of trees related to management of EAB. The state should establish an ongoing grant program with annual funding that is usable for those activities.

2-L Regulation of Harmful Substances and Products

In metropolitan regions where most cities share boundaries with other cities, local bans of harmful drugs and substances such as synthetic drugs, which have been found to be dangerous, do not eliminate access to these products unless all cities take the same regulatory action.

Metro Cities supports statewide regulation and prohibition of products or substances in circumstances where there is evidence that products present a danger to anyone who uses them, where there is broad local support for a ban and where corresponding regulatory issues have regional or statewide significance.

In addition, the Legislature should provide for the regulation of products that are known to damage water quality, sewer collection, and storm and wastewater treatment systems, not just at the treatment and infrastructure maintenance levels, but at the consumer and manufacturing levels, through accurate labeling of products, public education, and recycling and re-use programs.

2-M Private Well Drilling Restriction Authority

Cities are authorized to enact ordinances that disallow the placement of private wells within city limits to ensure both water safety and availability for residents and businesses. This authority is important for the appropriate management of local water supply conservation efforts. Municipal water systems are financially dependent upon users to operate and maintain the system. A loss of significant rate payers resulting from unregulated private well drilling would economically destabilize water systems and could lead to contamination of the water supply.

Metro Cities supports current law authorizing cities to regulate and prohibit the placement of private wells within municipal utility service boundaries and opposes any attempt to remove or alter that authority. Metro Cities supports funding that can be used to cap private wells.

2-N Organized Waste Collection

Cities over 1,000 in population are required by law to ensure all residents have solid waste collection available to them. A city can meet the statutory requirement by licensing haulers to

operate in an open collection system, authorize city employees to collect waste, or implement organized collection through one or multiple haulers to increase efficiency, reduce truck traffic and control costs to residents.

Metro Cities supports current laws that allow cities to work with existing haulers to achieve the benefits of organized collection or investigate the merits of organized collection without the pressure of a rigid timeline and requirement to pass 'an intent to organize' at the beginning of the discussion process. Metro Cities opposes any legislation that would further increase the cost or further complicate the process cities are required to follow to organize waste collection or prohibit cities from implementing, expanding or using organized waste collection.

2-O Election Administration

Cities play a critical role in managing and ensuring the integrity of elections. Any changes made to election laws should not place undue financial or administrative burdens on local governments. Additional costs resulting from election law changes should be the responsibility of the state.

Eligible voters in Minnesota may vote by absentee ballot prior to Election Day. Starting 46 days before the election, a voter can request, receive and cast an absentee ballot in one visit to their county or city election offices.

As more and more voters choose to vote early with absentee balloting, improvements must be made to increase efficiency of administering absentee balloting before Election Day, reduce the potential for errors and to improve voter experience.

Metro Cities supports:

- **2016 laws allowing in-person absentee voters to place their ballots in a secure tabulator, and statutory changes to allow this for the duration of absentee voting;**
- **Establishing an earlier deadline for ending in-person absentee voting;**
- **Revising absentee ballot regulations to allow any person 18 and older to witness the absentee process and sign the envelope as a witness; and**
- **Authorizing cities with health care facilities to schedule election judges to conduct absentee voting at an earlier date in health care facilities.**

2-P Utility Franchise Fees, Accountability and Cost Transparency

Minnesota cities are authorized by Minnesota statutes M.S. 216B and 301B.01 to require a public utility (gas or electric) that provides services to the city or occupies the public right of way within a city to obtain a franchise. Several metro area cities have entered agreements that

require the utility to pay a fee to help offset costs of maintaining the right of way.

Cities are also adopting energy policies that use renewable energy resources to light or heat public facilities. Policies and programs have also been instituted in cooperation with the public utility franchisee to increase energy efficiency for all users. Cities also contract, at city expense, with public utilities to "underground" wires. State laws also require energy companies to provide more electric energy from renewable sources. The specific amounts vary by type of utility.

Metro Cities supports:

- **State policies adopted by legislation or through rules of the Public Utility Commission that provide cities with the authority to include city energy policies and priorities in a franchise or similar agreement with a franchisee; and**

- **Greater accountability and transparency for city paid costs associated with underground utility and similar work performed by electric utilities as part of a local project.**

2-Q Water Supply

Municipal water suppliers are charged with meeting the water supply needs of their communities and work to do so with safe, reliable and cost-effective systems that are sustainable both for established cities and for all future growth.

The aquifers in the metropolitan area cross municipal boundaries and therefore require a coordinated regional approach to planning for their future availability. Currently, approximately 75% of municipal water supply in the metropolitan area comes from groundwater. With proper management of the resource, the current water supply in the region is adequate; however, Metropolitan Council projections predict localized declines in aquifer availability due to population growth estimates if current usage levels are maintained.

Regulation of water is complex and compartmentalized. Various agencies permit its use, plan for its availability, regulate stormwater, treat wastewater and protect the safety of water. To ensure that water supply remains adequate and sustainable across the region, we must understand how much water can be sustainably drawn from the aquifers and what effect increases in re-use, conservation and recharge can have on the sustainability and availability of both groundwater and surface water. Many of these strategies cross agency jurisdictions and will require improved coordination and cooperation.

Municipal water suppliers have made significant infrastructure investments in their systems based on calculated water availability and DNR permits. Proposals to reduce the reliance on groundwater by switching municipal water systems from groundwater to surface water supplies will come with significant costs that could place excessive burdens on local resources.

The outcomes and benefits of re-balancing the mix of groundwater and surface water use for specific municipalities and the region must be identifiable before any projects are undertaken.

The sustainability of our water supply is an issue of regional and statewide significance and the expense of any necessary projects that benefit the region should not fall on individual cities. Any attempts to address water supply sustainability must also take into account all water users, including municipal water suppliers, industry, private wells, agriculture and contamination containment.

The metropolitan region must consider the effects of groundwater use beyond the borders of the metropolitan area on the region's groundwater availability and the cost of treating contaminants in surface water that comes into the metropolitan area for use.

Metro Cities supports the removal of barriers to wastewater and storm water re-use, improved inter-agency coordination, clarifying the appropriate roles of local, regional and state governments with respect to water, streamlining and consolidating permit approval processes and the availability of statewide resources to plan for and ensure the future sustainability of water supply in the metropolitan area. Metro Cities also encourages the Metropolitan Council, in consultation with municipalities, to find ways to re-use wastewater and to develop other strategies to improve conservation.

Metro Cities supports state funding for costs associated with converting water supply from groundwater to surface water and funds to encourage and promote water conservation as a strategy to improve water sustainability and to improve and protect water quality.

2-R Regulation of Massage Therapists

In the absence of statewide regulation for massage therapy practitioners, many cities have enacted local ordinances that require massage therapists to obtain a local professional license to assist law enforcement in differentiating between legitimate providers and illegitimate businesses fronting as massage therapy establishments.

Metro Cities supports statewide registration or licensure of massage therapists to aid local law enforcement efforts in this area. Metro Cities supports cities' ability to continue to license massage therapy businesses.

Housing & Economic Development

Policies 3-A to 3-J: Introduction

While the provision of housing is predominantly a private sector, market-driven activity, all levels of government – federal, state, regional and local – have a role to play in facilitating the production and preservation of affordable housing in Minnesota.

Adequate affordable housing is a significant concern for the metropolitan region and effective approaches require participation from all levels of government, the private sector and nonprofit groups.

3-A City Role in Housing

All cities facilitate the development of housing via land use planning, zoning ordinances, subdivision regulations and rental licensing. Cities should have sufficient authority and flexibility to promote housing types best suited to meet local needs, public purposes and goals.

While local government financial resources constitute a relatively small portion of the total costs of providing housing, many cities take on a significant administrative burden by providing financial incentives and regulatory relief, participating in state and regional housing programs and supporting either local or countywide housing and redevelopment authorities and community development agencies.

Cities are responsible for most of the ground-level housing policy in Minnesota; including land use planning, code enforcement, rental licensing, and often the packaging of financial incentives. Cities are also responsible for ensuring the health and safety of residents and the structural soundness and livability of the local housing stock through building permits and inspections. Cities establish fee structures for residential development to cover the costs of growth and corresponding needs for public infrastructure. It is the responsibility of cities to periodically review local requirements such as land use regulations and ordinances to ensure that they are consistent with these purposes.

Metro Cities strongly opposes any effort to reduce, alter or interfere with cities' authority to carry out these functions in a locally determined manner.

3-B City Role in Affordable and Life Cycle Housing

Metro Cities supports housing that is affordable and appropriate for people at all stages of life. A variety of housing opportunities are important to the economic and social well-being of individual communities and the region. The region faces challenges in meeting the existing and future housing needs of low and moderate-income residents. Existing housing stock is aging, with roughly half older than 40 years old, according to the U.S. Census Bureau. Older housing

stock can be more affordable; however, it requires investments to remain viable. Private investors have purchased subsidized and unsubsidized rental units, made improvements and charged higher rents that have made access to previously affordable units prohibitive for low and moderate-income residents. The Metropolitan Council has projected the region will add nearly 35,000 households between 2021 and 2030 that will need affordable housing and require a subsidy of $5 billion to meet the needs of households earning up to 50 percent area median income.

Cities should work with the private and nonprofit sectors, counties, state agencies and the Metropolitan Council to ensure the best use of new and existing tools and resources to produce new housing and preserve existing affordable housing. Cities can facilitate the production and preservation of affordable and life cycle housing by:

- Applying for funding from available grant and loan programs;

- Using city and county funds to support affordable housing. This can include creating a local or regional housing trust fund to support affordable housing;

- Providing information, encouraging participation and incentivizing participation in the Section 8 Housing Choice Voucher program to landlords;

- Working with developers and residents to blend affordable housing into new and existing neighborhoods, including locations with access to amenities and services;

- Periodically examining local requirements, policies and review processes to determine their impacts on the construction of affordable housing;

- Considering criteria under which a city may change its fee structure in support of additional affordable housing;

- Supporting housing design that is flexible for residents at multiple stages of life;

- Periodically reviewing locally imposed development costs and policies;

- Employing innovative strategies to advance affordable housing needs such as public-private partnerships or creative packaging of regulatory relief and incentives;

- Using available regulatory mechanisms to shape housing communities;

- Recognizing inventory of subsidized and unsubsidized (naturally occurring) affordable housing; and

- Working collaboratively with buyers and sellers of naturally occurring affordable housing to retain affordability.

3-C Inclusionary Housing

While Metro Cities believes there are cost savings to be achieved through regulatory reform, density bonuses as determined by local communities, and fee waivers, Metro Cities does not believe a mandatory inclusionary housing approach can achieve desired levels of affordability solely through these steps. Several cities have established local inclusionary housing policies, in some cases requiring the creation of affordable units if the housing development uses public financial assistance or connecting the policy to zoning and land use changes. The Metropolitan Council, in distributing the regional allocation of housing need, must recognize both the opportunities and financial limitations of cities. The Council should partner with cities to facilitate the creation of affordable housing through direct financial assistance and/or advocating for additional resources through the Minnesota Housing Finance Agency.

Metro Cities supports the location of affordable housing in residential and mixed-use neighborhoods throughout a city. Metro Cities supports a city's authority to enact its own inclusionary housing policy. However, Metro Cities does not support passage of a mandatory inclusionary housing state law imposed on local governments that would require a certain percentage of units in all new housing developments to be affordable to households at specific income levels.

3-D Metropolitan Council Role in Housing

The Metropolitan Council is statutorily required to assist cities with meeting the provisions of the Land Use Planning Act (LUPA). The LUPA requires cities to adopt sufficient standards, plans and programs to meet their local share of the region's overall projected need for low and moderate-income housing. The Council's responsibilities include the preparation and adoption of guidelines and procedures to assist local government units with accomplishing the requirements of the LUPA.

The Metropolitan Council also offers programs and initiatives to create affordable housing opportunities, including the Livable Communities Act programs and operation of a metropolitan housing and redevelopment authority.

Unlike parks, transit and wastewater, housing is not a statutory regional system. The Metropolitan Council's role, responsibilities and authority are more limited in scope, centered on assisting local governments by identifying the allocation of need for affordable housing, projecting regional growth and identifying available tools, resources, technical assistance and methods that cities can use to create and promote affordable housing opportunities in their communities.

The Metropolitan Council should work in partnership with local governments to ensure that the range of housing needs for people at various life-cycle and incomes can be met. **Metro Cities opposes the elevation of housing to "Regional System" status. Metro Cities supports removing the Metropolitan Council's review and comment authority connected to housing revenue bonds under M.S. 462C.04.**

In 2014, the Metropolitan Council released a housing policy plan, the first of its kind in nearly 30 years. A housing policy plan should include defined local, regional and state roles for the provision of housing in all sectors, identify the availability of and need for tools and resources for affordable and lifecycle housing, be explicit in supporting partnerships for the advocacy for state and federal resources for housing, and encompass policies, best practices and technical guidance for all types of housing. A plan should also recognize the diversity in local needs, characteristics and resources.

Metro Cities supports strategies such as regional and sub-regional cooperation and the sharing of best practices among local governments and other entities and partners to address the region's affordable housing needs.

A policy plan should allow for ongoing research and analysis by the Metropolitan Council to provide communities with timely and updated information on regional and local housing needs and market trends as regional and local needs change and evolve. **Metro Cities supports the solicitation and use of local data, inputs and analyses and local governments' review of such data.**

Metro Cities supports continued city representation in any updated or new regional housing policy plan.

3-E Allocation of Affordable Housing Need

The allocation of affordable housing need methodology determines how many affordable housing units will be needed in the region and distributes the need by assigning each city its fair share through an affordable housing need number. M.S. 473.859 requires cities to guide sufficient land to accommodate local shares of the region's affordable housing need. **Metro Cities supports additional Metropolitan Council resources to assist cities in meeting cities' share of the region's affordable housing needs.**

Metro Cities supports the creation of a variety of housing opportunities. However, the provision of affordable and lifecycle housing is a shared responsibility between the private sector and government at all levels, including the federal government, state government and Metropolitan Council. Land economics, construction costs and infrastructure needs create barriers to the creation of affordable housing that cities cannot overcome without assistance.

Therefore, Metro Cities supports a Metropolitan Council affordable housing policy and allocation of need methodology that recognizes the following tenets:

- **Regional housing policies characterize individual city and sub-regional housing numbers as a range of needs in the community;**

- **Cities need significant financial assistance from the federal and state government, as well as the Metropolitan Council, to make progress toward creating additional affordable housing and preserving existing affordable housing;**

- **Metropolitan Council planning and policies must be more closely aligned to help ensure that resources for transportation and transit are available to assist communities in addressing their local share of the regional affordable housing need and to ensure that all populations have adequate mobility to reach jobs, education and other destinations regardless of where they live;**

- **The Metropolitan Council will not hold cities responsible if a city does not meet its affordable housing need number. However, efforts to produce affordable housing may be considered when awarding grants;**

- **The Metropolitan Council, with input by local government representatives, should examine the allocation of need methodology with respect to the relationship between the regional allocation and the local share of the need. The formula should also be routinely evaluated to determine if market conditions have changed or if underlying conditions should prompt readjustment of the formula;**

- **The Council should use a methodology that incorporates data accumulated by individual cities and not limited to census driven or policy driven growth projections;**

- **The formula should be adjusted to better reflect the balance and breadth of existing subsidized and naturally occurring affordable housing stocks; and**

- **The Council should work with local governments through an appeals process in order to resolve any local issues and concerns with respect to the need allocations.**

3-F Housing Performance Scores

The Metropolitan Council calculates a city's housing performance score annually. Scores are determined using an annual city survey as well as Council data. The Council uses city Housing Performance Scores when scoring the Regional Solicitation for federal transportation points and the Council's Livable Communities grant programs. Cities may review their own as well as other cities' Housing Performance Scores periodically to gauge recent activity on affordable housing preservation and new construction.

Metro Cities supports Housing Performance Score criteria that recognize varying local resource capacities, tools, programs and policies to support housing production and the market nature of housing development, and that do not limit cities to a prescriptive list of tools and policies. The criteria for determining the score should adequately recognize the current tools, policies and resources employed by local governments.

Metro Cities supports a process for local governments to review, comment on and appeal preliminary Housing Performance Scores as well as provide additional information to be used in calculating the scores.

Metro Cities supports a consistent schedule for sending the annual housing production survey to cities.

In considering Housing Performance Score uses and criteria:

- The Council should engage in a periodic review of the formula;

- Any proposed new or expanded uses or programs in which the Housing Performance Scores would be used should be reviewed by local officials; and

- The Council should recognize market factors such as downward economic cycles when setting timelines and look-backs in calculating recent affordable housing production.

3-G State Role in Housing

The state must be an active participant in providing funding for housing, including direct funding, financial incentives and initiatives to assist local governments and developers to support affordable housing and housing appropriate for people at all stages of life. State funding is a major and necessary component for the provision of housing. Current resource levels are insufficient to meet the spectrum of needs in the metropolitan region and across the state.

Primarily through programs administered by the Minnesota Housing Finance Agency (MHFA), the state establishes the general direction and prioritization of housing issues, and financially supports a variety of housing, including transitional housing, supportive housing, senior housing, workforce housing and family housing. Minnesota's low-income rental property classification, commonly known as class 4d, allows landlords to certify qualifying low-income rental property. The state must continue to be an active partner in addressing life cycle and affordable housing needs.

Workforce housing is generally defined as housing that supports economic development and job growth and is affordable to the local workforce. A statewide program, administered through the Minnesota Housing Finance Agency, supports workforce homeownership efforts in the metropolitan area. State policies and funding should recognize that affordable housing options that are accessible to jobs and meet the needs of a city's workforce, are important to the economic competitiveness of cities and the metro region. In addition, significant housing related racial disparities persist in Minnesota, especially as it relates to the percentage of households of color who pay more than 30 percent of their income in housing costs, and as it relates to the significant disparity gap in homeownership rates.

Metro Cities supports:

- **Increased, sustainable and adequate state funding for new and existing programs that support life cycle, workforce and affordable housing, address homeownership disparities, address foreclosure mitigation, address housing for families with children, and support senior, transitional and emergency housing for the metro region;**

- **A state match for local and regional housing trust fund investments and local policies in support of affordable housing. State funds should be issued on a timeline that works with a city's budget process;**

- **Private sector funding for workforce housing;**

- **Housing programs that assist housing development, preservation and maintenance of existing housing stock, including unsubsidized, naturally occurring affordable housing that is affordable to residents throughout the low-to-moderate income range;**

- **State funded housing programs, including rental assistance, to help with rent affordability;**

- **Housing programs designed to develop market rate housing in census blocks with emerging or high concentrations of poverty, where the private market might not otherwise invest, as a means of creating mixed-income communities and reconciling affordable housing with community development goals;**

- **Continuing the policy of using the Minnesota Housing Finance Agency's investment earnings for housing programs;**

- **City input into state legislation and administrative policies regarding distribution of tax credits and tax-exempt bonding;**

- **Exemptions from, or reductions to sales, use and transaction taxes applied to the development and production of affordable housing;**

- **Consideration of the use of state bond proceeds and other appropriations for land banking, land trusts, and rehabilitation and construction of affordable housing;**

- **Programs that help avoid foreclosures, improve homeownership rates and reduce racial disparities through homeownership assistance programs and counseling services, including pre-purchasing counseling to improve financial wellness and inform homeowners and potential homeowners of their rights, options and costs associated with owning a home;**

- **Preserving and expanding the state 4d low-income property tax program which provides a property tax benefit to qualifying low-income rental properties;**

- **An affordable housing tax credit to help spur construction and secure additional private investment. This incentive could be used in conjunction with city, regional, or other state incentives; and**

- **Maintaining existing municipal authority to establish a housing improvement area (HIA). If the Legislature grants multi-jurisdictional entities the authority to create HIAs,**

creation of an HIA must require municipal approval.

3-H Federal Role in Affordable and Workforce Housing

Federal funding plays a critical role in aiding states and local governments in their efforts to maintain and increase affordable and workforce housing. Providing working families access to housing is an important piece to the economic vitality of the region.

Metro Cities encourages the federal government to maintain and increase current levels of funding for affordable and workforce housing. Federal investment in affordable and workforce housing will maintain and increase the supply of affordable and life cycle housing as well as make housing more affordable through rental assistance programs such as the Section 8 housing choice voucher program.

In July 2015, the U.S. Department of Housing and Urban Development (HUD) released a final rule on affirmatively furthering fair housing (AFFH) with an aim to provide communities that receive HUD funding with clear guidelines to meet their obligation under the Fair Housing Act of 1968 to promote and reduce barriers to fair housing and equal opportunity. HUD has since provided new guidance to comply with the AFFH rule.

Opportunity Zones is a community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones as designated by the chief executives of every state and territory in the United States. The tax incentive is available for up to ten years.

As the chief executive of the state of Minnesota, Governor Mark Dayton designated 128 census tracts across the state as Opportunity Zones, but beyond the responsibility for this designation the state does not have an additional role in the implementation of the Act. As the United States Treasury Department has yet to release rules for Opportunity Zones, there are many unknowns about the effects the Act will have on communities. It is anticipated that the Act may be a useful tool in spurring development in low-income communities and could help with business development and jobs. There are also questions about what impact the Act will have on the residents that live and businesses that operate in these communities today. For example, while development may have positive impacts such as increasing tax base or job opportunities, robust development could have unintended consequences such as displacement of current residents and businesses.

Metro Cities urges the federal government to seek regular input from communities, especially from individuals and businesses within Opportunity Zones, regarding how the tool is being used, whether the tool is encouraging new development opportunities, and how community members who live in the Zones are impacted. The Federal Government should seek input from local communities throughout the implementation of the rules and regulations and consider necessary amendments and adjustments as needed in response to potential questions or concerns raised by the communities whose residents, workers, and businesses will be experiencing the changes that

ensue in the Zones.

The State of Minnesota should utilize community development resources to stimulate investment in Opportunity Zones and adopt policies that ensure that local residents, workers and businesses benefit from the investments.

Metro Cities supports the following:

- **Preserving and increasing funding for the Community Development Block Grant Program (CDBG) and the federal HOME program that are catalysts for creating affordable housing;**

- **Preserving and increasing resources and incentives to sustain existing public housing throughout the Metro Area;**

- **Maintaining the federal tax credit program to help spur construction and secure additional private investment, including making the four percent Low Income Housing Tax Credit a fixed rate as was done with the nine percent credit in 2015;**

- **Creating and implementing a more streamlined procedural method for local units of government to participate in and access federal funding and services dealing with grants, loans, and tax incentive programs for economic and community development efforts;**

- **Additional resources to assist communities to meet obligations to reduce barriers to and promote fair housing and equal opportunity;**

- **Maintaining and increasing resources to Section 8 funding and to support incentives for rental property owners to participate in the program; and**

- **Federal funding to provide short-term assistance for HRAs to facilitate the sale of tax- exempt bonds.**

3-I Vacant, Boarded, and Foreclosed Properties and Properties at Risk

Abandoned residential and commercial properties can harm communities when vacant buildings result in reduced property values and increased crime. The additional public safety and code enforcement costs of managing vacant properties are a financial strain on cities.

Metro Cities supports solutions to vacant and boarded properties that recognize:

- **Prevention is more cost effective than a cure;**

- **The causes of this problem are many and varied, thus the solutions must be as well; and**

- **It is not simply a "city" problem so cities must not be expected to bear the bulk of the burden of mitigation.**

Further, Metro Cities supports:

- **Registration of vacant and boarded properties;**

- **Allowing cities to acquire vacant and boarded properties before deterioration and vandalism result in unsalvageable structures, including providing financial tools such as increasing eminent domain flexibility;**

- **Improvements to the cost assignment process to ensure that cities can recoup their costs of managing vacant properties;**

- **Improving the ability of cities to recoup the increased public safety and enforcement costs related to vacant properties;**

- **Improvement of the redemption process to provide increased notification to renters, strengthen the ability of homeowners to retain their properties, and reduce the amount of time a property is vacant;**

- **Expedition of the tax forfeiture process;**

- **Increasing financial tools for neighborhood recovery efforts, including tax increment financing; and**

- **Year-round notification by utility companies of properties not receiving utility service.**

3-J Housing Ordinance Enforcement

A Minnesota State Supreme Court ruling, Morris v. Sax, stated that provisions of the city of Morris' rental housing code were invalid because there were subjects dealt with under the state building code and the city was attempting to regulate these areas "differently from the state building code." M.S. 16B.6s subdivision 1 states: "The state building code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the state building code."

Metro Cities supports the ability of cities to enforce all housing codes passed by a local municipality to maintain its housing stock.

3-K Economic Development, Redevelopment and Workforce Readiness

The economic viability of the metro area is enhanced by a broad array of economic development tools that create infrastructure, revitalize previously developed property, provide incentives for business development, support technological advances, support a trained workforce, and address disparities in economic development and workforce development. It should be the goal of the state to champion development and redevelopment by providing enough sustainable funding to assure competitiveness in a global marketplace. The state should recognize the relationship between housing and economic development. Economic development and redevelopment are not mutually exclusive – some projects require a boost on both counts. The State of Minnesota should recognize cities as the primary unit of government responsible for the implementation of economic development, redevelopment policies and land use controls.

3-K (1) Economic Development

For purposes of this section, economic development is defined as a form of development that can contain direct business assistance, infrastructure development, technical assistance and policy support with the goal of sustainable job creation, job retention, appropriate state regulation or classification, or to nurture new or retain existing industry in the state. The measure of return on investment of public business subsidies should include the impact (positive or negative) of "spin-off development" or business development that is ancillary and supportive of the primary business.

A strength of the regional economy has been its economic diversity. GREATER MSP has identified multiple industry clusters and sectors that employ a specialized, trained workforce and support entrepreneurs in developing new businesses. Partnerships and collaborations among the state and local levels of government, higher education and industry should continue to develop, to commercialize new technologies and to support efforts to enhance the economic vitality of the region.

While cities are the primary unit of local government responsible for the implementation of economic development, counties have an interest in supporting local economic development efforts. Any creation of a county CDA, EDA or HRA with economic development powers should follow M.S. 469.1082 that requires a city to adopt a resolution electing to participate. Cities can work with the public and private sectors to support the region's economic growth by reducing barriers to economic participation by people of color.

Metro Cities supports state funded programs that support new and expanding businesses, infrastructure development and public-private partnerships. This includes the Minnesota Investment Fund, Job Creation Fund and Angel Tax Credit. Programs using statewide funding should strive to award funds balanced between the metro region and greater Minnesota. **Metro Cities supports competitive funding for statewide grant programs such as the Minnesota Investment Fund (MIF) as opposed to direct legislative appropriations for projects from these funds. Metro Cities supports a percentage of MIF loan repayments to cities.** The state should provide administrative support and technical assistance to cities that administer these programs. Applications for state MIF funds should allow a city to indicate support for a MIF grant or a loan.

Metro Cities supports economic tools that facilitate job growth without relying solely on the property tax base; green job development and related innovation and entrepreneurship; programs to support minority business start-ups; small business financing tools including a state new markets tax credit program mirrored on the federal program; tools to attract and retain data centers and other IT facilities; and maintaining existing municipal authority to establish a special service district (SSD). Metro Cities supports further study of allowing mixed-use buildings that have both commercial and residential uses to be included in an SSD.

3-K (2) Redevelopment

Redevelopment involves the development of land that requires "predevelopment." The goal of redevelopment is to facilitate the development of "pre-used" land, thereby leveling the playing field between greenfield and brownfield sites so that a private sector entity can rationally choose to locate on land that has already been used. The benefits of redevelopment include a decrease in Vehicle Miles Traveled (VMTs), more efficient use of new or existing public infrastructure (including public transit), ameliorated city costs due to public safety and code enforcement, and other public goods that result when land is reused rather than abandoned and compact development is encouraged.

Metro Cities supports increased funding from state and regional sources. The Metropolitan Council's Livable Communities Act programs fund redevelopment activities that support cleanup and tax base revitalization. **Metro Cities supports allowing a maximum levy amount for this program, as provided under law. Metro Cities supports increased and sustained general fund and state bond funds for DEED-administered programs like the Redevelopment Grant Program, dedicated to metropolitan area projects, innovative Business Development Public Infrastructure grants, as well as increased, flexible and sustained funding for the Contamination Cleanup and Investigation Grant Program.**

The expansion of transit service throughout the region brings opportunity for redevelopment and transit oriented development (TOD). **Metro Cities supports financing, regulatory tools and increased flexibility in the use of TIF to nurture TOD. Metro Cities supports funding Transit Improvement Areas (TIAs) and ensuring that the eligibility criteria encourage a range of improvements and infrastructure and accommodate varying city circumstances and needs.**

Correcting and stabilizing polluted soils and former landfill sites allows cities to redevelop and reuse properties. **Metro Cities supports expansion of existing tools or development of new funding mechanisms to correct unstable soils as well as city authority to redevelop land previously used as landfills and dumps.** If a city receives initial approval from a state regulatory authority, a city's redevelopment project approval should be considered final.

Local governments and cities may choose to revitalize historic structures rather than construct new buildings. **Metro Cities supports extension of the sunset of the state income tax credit and maintaining the federal tax credit for preservation of historic properties.**

Metro Cities supports state funding to allow cities and/or their development authorities to assemble small properties so that business expansion sites will be ready for future redevelopment.

3-K (3) Workforce Readiness

A trained workforce is important to a strong local, regional and state economy. Cities have an interest in the availability of qualified workers and building a future workforce based on current and future demographics, as part of their economic development efforts. Cities can work with the public and private sectors to address workforce readiness to include issues such as addressing racial disparities in achievement and employment gaps and the occupational gender gap. The state has a role to prepare and train a qualified workforce through the secondary, vocational and higher education systems and job training and retraining programs in the Department of Employment and Economic Development, including youth employment programs.

Metro Cities supports:

- **Increased funding for the Job Skills Partnership, youth employment programs and other workforce training programs administered by the state that lead to jobs that provide a living wage and benefits, and help address racial disparity gaps in employment;**

- **Innovative workforce programs and partnerships that foster workforce readiness for a full range of jobs and careers, including skilled municipal jobs and current high opportunity areas such as manufacturing and construction;**

- **Investments in programs that address the gender wage gap, including training for women to enter nontraditional careers;**

- **A payroll tax credit for job training programs that invest in employees; and**

- **A city's authority to tie workforce requirements to local public finance assistance.**

3-L Tax Increment Financing

Tax Increment Financing (TIF) continues to be the primary tool available for local communities to assist economic development, redevelopment and housing. Over time, statutory changes have made this critical tool increasingly difficult to use. At the same time, federal and state development and redevelopment resources have been steadily shrinking. The cumulative impact of TIF restrictions, shrinking federal and state redevelopment resources and highly restrictive eminent domain laws constrain cities' abilities to address problem properties, which leads to an accelerated level of decline of developed cities in the metropolitan area. Thus, the only source of revenue available to accomplish the scope of redevelopment necessary is the value created by the redevelopment itself, or the "increment." Without the use of the increment, development will either not occur or is unlikely to be optimal.

Metro Cities urges the Legislature to:

- **Not adopt any statutory language that would further constrain or directly or indirectly reduce the effectiveness of TIF;**

- **Not adopt any statutory language that would allow a county, school district or special taxing district to opt out of a TIF district;**

- **Incorporate the Soils Correction District criteria into the Redevelopment District criteria so that a Redevelopment District can be comprised of blighted and contaminated parcels in addition to railroad property;**

- **Expand the flexibility of TIF to support a broader range of redevelopment projects;**

- **Amend MN Statutes to clarify that tax increment pooling limitations are calculated on a cumulative basis;**

- **Increase the ability to pool increments from other districts to support projects;**

- **Continue to monitor the impacts of tax reform on TIF districts and if warranted provide cities with additional authority to pay for possible TIF shortfalls;**

- **Allow for the creation of transit zones and transit related TIF districts in order to shape development and related improvements around transit stations but not require the use of TIF districts to fund the construction or maintenance of the public transit line itself unless a local community chooses to do so;**

- **Allow TIF eligibility expansion to innovative technological products, recognizing that not only physical items create economic value;**

- **Support changes to TIF law that will facilitate the development of "regional projects";**

- **Shift TIF redevelopment policy away from a focus on "blight" and "substandard" to "functionally obsolete" or a focus on long range planning for a particular community, reduction in greenhouse gases or other criteria more relevant to current needs;**

- **Encourage DEED to do an extensive cost-benefit analysis related to redevelopment, including an analysis of the various funding mechanisms, and an analysis of where the cost burden falls with each of the options compared to the distribution of the benefits of the redevelopment project;**

- **Support TIF for neighborhood recovery efforts in the wake of the foreclosure crisis;**

- **Consider creating an inter-disciplinary TIF team to review local exception TIF**

proposals, using established criteria, and make recommendations to the legislature on their passage;

- **Encourage the State Auditor to continue to work toward a more efficient and streamlined reporting process. There are an increasing number of noncompliance notices that have overturned longstanding practices or limited statutorily defined terms. The Legislature has not granted TIF rulemaking authority to the State Auditor and the audit powers granted by statute are not an appropriate vehicle for making administrative or legislative changes to TIF statutes. If the State Auditor is to exercise rulemaking authority, the administrative power to do so must be granted explicitly by the Legislature. The audit enforcement process does not create a level playing field for cities to challenge the Auditor's interpretation of statutes. The Legislature should provide a process through which to resolve disputes over TIF policy that is fair to all parties;**

- **Clarify the use of TIF when a sale occurs after the closing of a district;**

- **Revise the substandard building test to simplify, resolve ambiguities and reduce continued threat of litigation; and**

- **Amend TIF statutes to address, through extending districts or other mechanisms, shortfalls related to declining market values during economic crises.**

3-M Eminent Domain

Significant statutory restrictions on the use of eminent domain have resulted in higher public costs for traditional public use projects like streets, parks, and sewers, and have all but restricted the use of eminent domain for redevelopment to cases of extreme blight or contamination.

The proper operation and long term economic vitality of our cities is dependent on the ability of a city, its citizens and its businesses to continually reinvest and reinvent. Reinvestment and reinvention strategies can occasionally conflict with the priorities of individual residents or business owners. Eminent domain is a critical tool in the reinvestment and reinvention process and without it our cities may deteriorate to unprecedented levels before the public reacts.

Metro Cities strongly encourages the Governor and Legislature to revisit eminent domain laws to allow local governments to address redevelopment problems before those conditions become financially impossible to address. **Specifically, Metro Cities supports:**

- **Clarifying contamination standards;**

- **Developing different standards for redevelopment to include obsolete structures or to reflect the deterioration conditions that currently exist in the metro area;**

- **Allowing for the assembly of multiple parcels for redevelopment projects;**

- **Modifying the public purpose definition under Chapter 117 to allow cities to more expediently address properties that are vacant or abandoned in areas with high levels of foreclosures, to address neighborhood stabilization and recovery;**

- **Providing for the ability to acquire land from "holdouts" who will now view a publicly funded project as an opportunity for personal gain at taxpayer expense; i.e. allow for negotiation using balanced appraisals for fair relocation costs;**

- **Examining attorney fees and limit fees for attorneys representing a property owner;**

- **Allowing for relocation costs not to be paid if the city and property owner agree to a sale contract;**

- **A property owner's appraisal to be shared with the city prior to a sale agreement; and**

- **Appropriately balanced awards of attorney fees and costs of litigation with the outcome of the eminent domain proceeding.**

3-N Community Reinvestment

Communities across the metropolitan region have aging residential and commercial structures that need repair and reinvestment. Reinvestment prevents neighborhoods from falling into disrepair, revitalizes communities and protects a city's tax base.

Metro Cities supports state programs and incentives for reinvestment in older residential and commercial/industrial buildings, such as, but not limited to, tax credits and/or property tax deferrals.

Historically, the state has funded programs to promote reinvestment in communities, including the "This Old House" program, that allowed owners of older homestead property to defer an increase in their tax capacity resulting from repairs or improvements to the home and "This Old Shop" for owners of older commercial/industrial property that make improvements that increase the property's market value.

3-O Business Incentives Policy

Without a thorough study, the Legislature should not make any substantive changes to the Business Subsidy Act, as defined in M.S. 116J.993, but should look to technical changes that would streamline both state and local processes and procedures. The Legislature should distinguish between development incentives and redevelopment activities. In addition, in order to ensure cohesive and comprehensive regulations, the legislature should limit regulation of business incentives to the Business Subsidy Act.

Metro Cities supports additional legislation that includes tools to help enhance and

facilitate economic development and job creation.

3-P Broadband Technology

Where many traditional economic development tools have focused on managing the costs and availability of traditional infrastructure - roads, rail and utilities - the 21st century economy is dependent on reliable, cost effective, high bandwidth communications capabilities. This includes voice, video, data and other services delivered over cable, telephone, fiber-optic, wireless and other platforms.

The state has increased its role in expanding broadband infrastructure across the state by funding broadband access for residents and businesses. The Governor's Broadband Task Force regularly recommends updates to state broadband speed goals and funding levels to expand statewide broadband access. The Office of Broadband Development in the Department of Employment and Economic Development supports the role of broadband in economic development. The Office coordinates broadband mapping and administers state broadband grant funds.

Cities play a vital role in achieving significantly higher broadband speeds. Local units of government are contributing to increasing broadband capacity and ensuring internet connectivity, reliability, and availability. However, attempts have been made in Minnesota and other states to restrict or stop cities from facilitating the deployment of broadband services or forming partnerships with private sector companies to provide broadband services to unserved or underserved residents or businesses. Restricting municipal authority is contrary to existing state law on electric utility service, telecommunications, and economic development. **Metro Cities opposes the adoption of state policies that further restrict a city's ability to finance, construct or operate broadband telecommunications networks.**

Metro Cities supports:

- **State policies and support programs that substantially increase speed and capacity of broadband services statewide, including facilitating solutions at the local level. The state should offer incentives to private sector service providers to respond to local or regional needs and to collaborate with cities and other public entities to deploy broadband infrastructure capable of delivering sufficient bandwidth and capacity to meet immediate and future local needs as well as policies which seek to position Minnesota as a state of choice for testing next-generation broadband;**

- **Metro eligibility for broadband funds, including increased capacity for areas with existing levels of service;**

- **Municipal authority and encouragement of local governments to play a direct role in providing broadband service. This includes repealing Minnesota Statute 237.19. The state should clarify that cities have the authority to partner with private entities to finance broadband infrastructure using city bonding authority;**

- **Local authority to manage public rights-of-way, to zone, to collect compensation for the use of public assets, or to work cooperatively with the private sector. Cities may exercise local authority over zoning and land-use decisions for wireless service facilities; and**

- **Public-private collaborations that support broadband infrastructure and services at the local and regional level, including partnerships and cooperation in providing last-mile connections.**

3-Q City Role in Environmental Protection and Sustainable Development

Historically, cities have played a major role in environmental protection, particularly in water quality. Through the construction and operation of wastewater treatment and storm water management systems, cities are a leader in protecting the surface water of the state. In recent years, increased emphasis has been placed on protecting ground water and removing impairments from storm water. In addition, there is increased emphasis on city participation in controlling our carbon footprint and in promoting green development.

Metro Cities supports public and private environmental protection efforts to reduce greenhouse gas emissions and to further protect surface and ground water. Metro Cities also supports "green" design and construction techniques to the extent that those techniques have been thoroughly tested and are truly environmentally beneficial, economically sustainable and represent sound building practices. Metro Cities supports additional, feasible environmental protection with adequate funding and incentives to comply.

Green jobs represent employment and entrepreneurial opportunities that are part of the green economy, as defined in M.S. 116J.437, including the four industry sectors of green products, renewable energy, green services and environmental conservation. Minnesota's green jobs policies, strategies and investments need to lead to high quality jobs with good wages and benefits, meeting current wage and labor laws.

3-R Impaired Waters

Metro Cities supports continued development of the metropolitan area in a manner that is responsive to the market, but is cognizant of the need to protect the water resources of the state and metro area. Since all types of properties are required to pay storm water fees, Metro Cities opposes entity-specific exemptions from these fees. Metro Cities supports the goals of the Clean Water Act and efforts at both the federal and state level to implement it.

Metro Cities supports continued funding of the framework established to improve the region's ability to respond to market demands for development and redevelopment, including dedicated funding for surface water impairment assessments, Total Maximum Daily Load (TMDL) development, storm water construction grants and wastewater construction grants.

Local units of government should not bear undue cost burdens associated with completed TMDL reports. As recent TMDL reports show, non-point agricultural sources are producing more run off pollution than urban areas at a rate of 13:1. Cities must not be required as primary entities for funding the clean-up and protection of state and regional water resources. Benefits of efforts must be proportional to the costs incurred and agricultural sources must be held responsible for their share of costs.

4-A Goals and Principles for Regional Governance

The Twin Cities metropolitan region is home to a majority of the state's population and businesses and is poised for significant growth in the next two decades. At the same time, the region faces significant challenges and opportunities. The responses to these opportunities and challenges will determine the future success of the region and its competitiveness in the state, national and world economies.

The Metropolitan Council was created to manage the growth of the metropolitan region, and cities are responsible for adhering to regional plans as they plan for local growth and service delivery.

The region's cities are the Metropolitan Council's primary constituency, with regional and local growth being primarily managed through city comprehensive planning and implementation, and the delivery of a wide range of public services. To function successfully, the Metropolitan Council must be accountable to and work in collaboration with city governments.

The role of the Metropolitan Council is to set broad regional goals and to provide cities with technical assistance and incentives to achieve those goals. City governments are responsible and best suited to provide local zoning, land use planning, development and service delivery. Any additional roles or responsibilities for the Metropolitan Council should be limited to specific statutory assignments or grants or authorization, and should not usurp or conflict with local roles or processes, unless such changes have the consent of the region's cities.

Metro Cities supports an economically strong and vibrant region, and the effective, efficient and equitable provision of regional infrastructure, services and planning throughout the metropolitan area.

Metro Cities supports the provision of approved regional systems and planning that can be provided more effectively, efficiently or equitably on a regional level than at the local level by individual local units of government.

The Metropolitan Council must involve cities in the delivery of regional services and planning and be responsive to local perspectives on regional issues, and be required to provide opportunities for city participation on Council advisory committees and task forces.

The Metropolitan Council must involve cities at all steps of planning, review and implementation around the regional development guide, policy plans, systems statements, and local comprehensive plan requirements to ensure transparency, balance and Council adherence to its core mission and functions. These processes should allow for stakeholder input before policies and plans are released for comment and finalized.

4-B Regional Governance Structure

Metro Cities supports the appointment of Metropolitan Council members by the Governor with four-year, staggered terms for members to stabilize ideological shifts and provide for continuity of knowledge on the Council, which is appropriate for a long-range planning body. The appointment of the Metropolitan Council Chair should coincide with the term of the Governor.

Metro Cities supports a nominating committee process that maximizes participation and input by local officials. Metro Cities supports expanding the nominating committee from seven to 13 members, with a majority of a 13-member committee being local elected officials. Of the local officials appointed to a nominating committee, two thirds should be elected city officials, appointed by Metro Cities.

Consideration should be given to the creation of four separate nominating committees, with committee representation from each quadrant of the region.

Metro Cities supports having the names of recommended nominees or other individuals under consideration for appointment to the Council by the Governor to be made public at least 21 days prior to final selection by the Governor, and a formal public comment period before members are appointed to the Council.

Metro Cities supports the appointment of Metropolitan Council members who have demonstrated the ability to work with cities in a collaborative manner and commit to meet with local government officials regularly, and who understand the diversity and the commonalities of the region, and the long-term implications of regional decision-making. A detailed position description outlining the required skills, time commitment and understanding of regional and local issues and concerns should be clearly articulated and posted in advance of the call for nominees.

4-C Comprehensive Analysis and Oversight of Metropolitan Council

Metro Cities supports the 2016 study of the Metropolitan Council's governance structure conducted by the Citizens League, the recommendations of which are largely consistent with Metro Cities' governance policies.

The metropolitan region will continue to expand while simultaneously facing significant challenges for the effective, efficient and equitable provision of resources and infrastructure. Metro Cities supports an objective study of the Metropolitan Council's activities and services as well as its geographical jurisdiction to ensure that the Metropolitan Council's services are positioned to be effective and adequate in addressing the future needs of the region. Such work must include the participation of local officials. The Metropolitan Council should also examine its scope of services to determine their benefit and efficiency, and be open to alternative methods of delivery to assure that services are provided at high levels of effectiveness for the region.

Metro Cities supports appropriate legislative oversight of the Metropolitan Council to

regularly review the Council's activities, and to provide transparency and accountability of its functions and operations.

4-D Funding Regional Services

The Metropolitan Council should continue to fund regional services and activities through a combination of user fees, property taxes, and state and federal grants. The Council should set user fees through an open process that includes public notices and public hearings. User fees should be uniform by type of user and set at a level that supports effective and efficient public services based on commonly accepted industry standards, and allows for sufficient reserves to ensure long-term service and fee stability. Fee proceeds should be used to fund regional services or programs for which they are collected.

Metro Cities supports the use of property taxes and user fees to fund regional projects so long as the benefit conferred on the region is proportional to the fee or tax, and the fee or tax is comparable to the benefit cities receive in return.

4-E Regional Systems

Regional systems are statutorily defined as transportation, aviation, wastewater treatment and recreational open space. The purpose of the regional systems and the Metropolitan Council's authority over them is clearly outlined in state law. The Metropolitan Council must seek a statutory change to alter the focus or expand the reach of any of these systems.

Systems plans prepared by the Metropolitan Council should be specific in terms of size, location and timing of regional investments to allow for consideration in local comprehensive planning. Systems plans should also clearly state the criteria by which local plans will be judged for consistency with regional systems.

Additional regional systems should be established only if there is a compelling metropolitan problem or concern best addressed through the designation. Common characteristics of the existing regional systems include public ownership of the system and its components and established regional or state funding sources. These characteristics should be present in any new regional system that might be established. Water supply and housing do not meet necessary established criteria for regional systems. Any proposed additional system must have an established regional or state funding source.

4-F Regional Water Supply Planning

The Metropolitan Council is statutorily authorized to carry out regional planning activities to address the water supply needs of the Metro Area. A Metropolitan Area Water Supply Advisory Committee that includes state agency representatives and local officials was concurrently established to assist the Council in developing a master water supply plan that includes recommendations for clarifying the roles of local, regional and state governments, streamlining and consolidating approval processes and recommending future planning and capital

investments. The Master Water Supply Plan serves as a framework for assisting and guiding communities in their water supply planning, without usurping local decision-making processes. Many cities also conduct their own analyses for use in water supply planning.

As the Metropolitan Council continues its assessment of the region's water supply and issues for sustainability, it must work cooperatively with local policymakers and professional staff throughout the region on an on-going structured basis to ensure a base of information for water supply decision making that is sound, credible and verifiable, and considers local information, data, cost-benefit analyses and projections before any policy recommendations are issued.

Metro Cities encourages the Metropolitan Council to consider the inter-relationships of wastewater treatment, storm water management and water supply. Any state and regional regulations and processes should be clearly stated in the Master Water Supply Plan. Further, regional monitoring and data collection benefits should be borne as shared expenses between the regional and local units of government.

Metro Cities supports Metropolitan Council planning activities to address regional water supply needs and water planning activities as prescribed in statute. Metro Cities opposes the insertion of the Metropolitan Council as another regulator in the water supply arena. Further, while Metro Cities supports regionally coordinated efforts to address water supply issues in the metropolitan area, Metro Cities opposes the elevation of water supply to "Regional System" status, or the assumption of Metropolitan Council control and management of municipal water supply infrastructure.

Metro Cities supported 2015 law changes that expanded municipal representation on the water supply advisory committee and eliminated the requirement that city comprehensive plans be consistent with the regional water supply plan. These laws serve to strengthen input and collaboration for water supply planning, and help to ensure sound scientific analyses and models are developed before legislative solutions to these issues are considered. **Metro Cities supports the technical advisory committee to the MAWSAC that maximizes participation by municipal officials.**

Metro Cities supports efforts to identify capital funding sources to assist with municipal water supply projects. Any fees or taxes for regional water supply planning activities must be consistent with activities prescribed in M.S. 473. 1565, and support activities specifically within the region.

4-G Review of Local Comprehensive Plans

In reviewing local comprehensive plans and plan amendments, the Metropolitan Council should:

- Recognize that its role is to review and comment, unless it is found that the local plan is more likely than not to have a substantial impact on or contain a substantial departure from one of the four system plans;

- Be aware of the statutory time constraints imposed by the Legislature on plan

amendments and development applications;

- Provide for immediate effectuation of plan amendments that have no potential for substantial impact on systems plans;

- Require the information needed for the Metropolitan Council to complete its review, but not prescribe additional content or format beyond that which is required by the Metropolitan Land Use Planning Act (LUPA);

- Work in a cooperative and timely manner toward the resolution of outstanding issues. **When a city's local comprehensive plan is deemed incompatible with the Metropolitan Council's systems plans, Metro Cities supports a formal appeals process that includes a peer review. Metro Cities opposes the imposition of sanctions or monetary penalties when a city's local comprehensive plan is deemed incompatible with the Metropolitan Council's systems plans or the plan fails to meet a statutory deadline when the city has made legitimate, good faith efforts to meet Metropolitan Council requirements;**

- Work with affected cities and other organizations such as the Pollution Control Agency, Department of Natural Resources, Department of Health and other stakeholders to identify common ground and resolve conflicts between respective goals for flexible residential development and achieving consistency with the Council's system plans and policies; and

- Require entities, such as private businesses, nonprofits, or local units of government, among others, whose actions could adversely affect a comprehensive plan, to be subject to the same qualifications and/or regulations as the city.

4-H Comprehensive Planning Process

Metro Cities supports continuing efforts to examine the comprehensive planning process to make sure that the process is streamlined and efficient and avoids excessive cost burdens or duplicative or unnecessary planning requirements by municipalities in the planning process. Metro Cities supports resources to assist cities in meeting regional goals as part of the comprehensive planning process, including planning grants and technical assistance.

Metro Cities supports funding and other resources from the Metropolitan Council for the preparation of comprehensive plan updates, including grant funding. Grants and other resources should be provided to all eligible communities through a formula that is equitable, and recognizes varying city needs and capacities.

4-I Comprehensive Planning Schedule

Cities are required to submit comprehensive plan updates to the Metropolitan Council every 10 years. A city's comprehensive plan represents a community's vision of how the city should grow and develop or redevelop, ensure adequate housing, provide essential public infrastructure and services, protect natural areas and meet other community objectives.

Metro Cities recognizes the merit of aligning comprehensive plan timelines with the release of census data. However, the comprehensive plan process is expensive, time consuming and labor intensive for cities, and the timing for the submission of comprehensive plans should not be altered solely to better align with census data. If sufficient valid reasons exist for the schedule for the next round of comprehensive plans to be changed or expedited, cities should be provided with financial resources to assist them in preparing the next round of plans.

Metro Cities opposes cities being forced into a state of perpetual planning because of regional and legislative actions. Should changes be made to the comprehensive planning schedule, Metro Cities' supports financial and other resources to assist cities in preparing and incorporating policy changes in local planning efforts.

Metro Cities supports a 10-year time frame for comprehensive plan update submissions.

4-J Local Zoning Authority

Local governments are responsible for zoning and local officials should have full authority to approve variances to remain flexible in response to the unique land use needs of their own community. Local zoning decisions, and the implementation of cities' comprehensive plans, should not be conditioned upon the approval of the Metropolitan Council or any other governmental agency.

Metro Cities supports local authority over land use and zoning decisions and opposes the creation of non-local appeals boards with the authority to supersede city zoning decisions.

4-K Regional Growth

The most recent regional population forecast prepared by the Metropolitan Council projects a population of 3,738,047 people by 2040.

Metro Cities recognizes cities' responsibility to plan for sustainable growth patterns that integrate transportation, housing, parks, open space and economic development that will result in a region better equipped to manage population growth, to provide a high quality of life for a growing and increasingly diverse metropolitan area population and improved environmental health.

In developing local comprehensive plans to fit within a regional framework, adequate state and regional financial resources and incentives, and maximum flexibility around local planning decisions are imperative. The regional framework should assist cities in managing growth while being responsive to the individual qualities, characteristics and needs of metropolitan cities, and should encourage sub-regional cooperation and coordination.

In order to accommodate this growth in a manner that preserves the region's high quality of life:

- Natural resource protection will have to be balanced with growth and development/reinvestment;

- Significant new resources will have to be provided for transportation and transit; and

- New households will have to be incorporated into the core cities, first and second-ring suburbs, and developing cities through both development and redevelopment.

In order for regional and local planning to result in the successful implementation of regional policies:

- The State of Minnesota must contribute additional financial resources, particularly in the areas of transportation and transit, community reinvestment, affordable housing development, and the preservation of parks and open space. If funding for regional infrastructure is not adequate, cities should not be responsible for meeting the growth forecast set forth by the Metropolitan Council;

- The Metropolitan Council and Legislature must work to pursue levels of state and federal transportation funding that are adequate to meet identified transportation and transit needs in the metropolitan area;

- The Metropolitan Council must recognize the limitations of its authority and continue to work with cities in a collaborative, incentives-based manner;

- The Metropolitan Council must recognize the various needs and capacities of its many partners, including but not limited to cities, counties, economic development authorities and nonprofit organizations, and its policies must be balanced and flexible in their approach;

- Metropolitan counties, adjacent counties and school districts must be brought more thoroughly into the discussion due to the critical importance of facilities and services such as county roads and public schools in accommodating forecasted growth; and

- Greater recognition must be given to the fact that the "true" metropolitan region extends beyond the traditional seven-county area and the need to work collaboratively with adjacent counties in Minnesota and Wisconsin, and the cities within those counties. The region faces environmental, transportation, and land use issues that cannot be solved by the seven-county metro area alone. **Metro Cities supports an analysis to determine the impacts of Metropolitan Council's growth management policies and infrastructure investments on the growth and development of the collar counties, and the impacts of growth in the collar counties on the metropolitan area.**

Metro Cities opposes statutory or other regulatory changes that interfere with established regional and local processes to manage growth in the metropolitan region, including regional systems plans, systems statements, and local comprehensive plans. Such changes erode local planning authority as well as the efficient provision of regional infrastructure, disregard established public processes, and create different guidelines for communities that may

result in financial, environmental and other impacts on surrounding communities.

4-L Natural Resource Protection

Metro Cities supports the Metropolitan Council's efforts to compile and maintain an inventory and assessment of regionally significant natural resources for providing local communities with additional information and technical assistance. The state and region play significant roles in the protection of natural resources. Any steps taken by the state or Metropolitan Council regarding the protection of natural resources must recognize that:

- The protection of natural resources is significant to a multi-county area that is home to more than 50 percent of the state's population and a travel destination for many more. Given the limited availability of resources and the artificial nature of the metropolitan area's borders, neither the region nor individual metropolitan communities would be well served by assuming primary responsibility for financing and protecting these resources;

- The completion of local Natural Resource Inventories and Assessments (NRI/A) is not a regional system nor is it a required component of local comprehensive plans under the Metropolitan Land Use Planning Act;

- The protection of natural resources should be balanced with the need to accommodate growth and development, reinvest in established communities, encourage more affordable housing and provide transportation and transit connections; and

- Decisions about the zoning or land use designations, either within or outside a public park, nature preserve or other protected area are, and should remain, the responsibility of local units of government.

The Metropolitan Council's role with respect to climate change, as identified in the 2040 regional development guide, should be focused on the stewardship of its internal operations (wastewater, transit) and working collaboratively with local governments to provide information, best practices, technical assistance and incentives around responses to climate change.

Metro Cities urges the Legislature and/or the Metropolitan Council to provide financial assistance for the preservation of regionally significant natural resources.

4-M Inflow and Infiltration (I/I)

The Metropolitan Council has identified a majority of sewered communities in the metropolitan region to be contributing excessive inflow and infiltration into the regional wastewater system or to be on the threshold of contributing excessive inflow and infiltration. Inflow and infiltration are terms for the ways that clear water (ground and storm) makes its way into sanitary sewer pipes and gets treated, unnecessarily, at regional wastewater plants. The number of identified communities is subject to change, depending on rain events, and any city in the metropolitan area can be affected.

The Metropolitan Council establishes a surcharge on cities determined to be contributing unacceptable amounts of I/I into the wastewater system. The charge is waived when cities meet certain parameters through local mitigation efforts.

Metro Cities recognizes the importance of controlling I/I because of its potential environmental and public health impacts, because it affects the size, and therefore the cost, of wastewater treatment systems and because excessive I/I in one city can affect development capacity of another. However, there is the potential for cities to incur increasingly exorbitant costs in their ongoing efforts to mitigate excessive I/I.

Metro Cities continues to monitor the surcharge program and supports continued reviews of the methodology used to measure excess I/I to ensure that the methodology appropriately normalizes for precipitation variability and the Council's work with cities on community specific issues around I/I.

Metro Cities supports state financial assistance for Metro Area I/I mitigation through future Clean Water Legacy Act appropriations or similar legislation and encourages the Metropolitan Council to partner in support of such appropriations. Metro Cities also supports resources, including identified best practices, information on model ordinances, public education and outreach, and other tools, to local governments to address inflow/infiltration mitigation for private properties.

Metro Cities recognizes the recommendations of a 2016 Inflow/Infiltration Task Force that support considering the use of a portion of the regional wastewater charge for private property inflow/infiltration mitigation. Any proposal to utilize the wastewater fee for this purpose must include the opportunity for local officials to review and comment on specific proposals.

Metro Cities supports continued state capital assistance to provide grants to metro area cities for mitigating inflow and infiltration problems into municipal wastewater collection systems.

4-N Sewer Availability Charge (SAC)

Metro Cities supports a SAC program that emphasizes equity, transparency, simplification and lower rates.

Metro Cities supports principles for SAC that include program transparency and simplicity, equity for all served communities and between current and future users, support for cities' sewer fee capacities, administrative reasonableness, and weighing any program uses for specific goals with the impacts to the program's equity, transparency and simplicity. As such, Metro Cities opposes the use of the SAC mechanism to subsidize and/or incent specific Metropolitan Council goals and objectives.

Metro Cities supports modifications to the SAC program recommended by a 2018 SAC Task Force and adopted by the Metropolitan Council to simplify the SAC determination

process by using gross rather than net square feet in making determinations, combining use categories, adjusting the grandfather credit date and not requiring a new SAC determination for business remodels that do not change the use of the property. These changes are intended to help simplify the SAC program for users, and to reduce incidents of "surprise" SAC charges.

Metro Cities supports current SAC policy that enhances flexibility in the SAC credit structure for redevelopment purposes, and supports continued evaluation of SAC fees to determine if they hinder redevelopment.

Metro Cities supports the Metropolitan Council providing details on how any changes to the SAC rate are determined. Metro Cities supports a periodic review of MCES' customer service policies, to ensure that its processes are responsive and transparent to communities, businesses and residents. Metro Cities supports continued outreach by MCES to users of the SAC program to promote knowledge and understanding of SAC charges and policies. Any modifications to the SAC program or structure should be considered only with the participation and input of local officials in the metropolitan region.

Metro Cities supports a "growth pays for growth" approach to SAC. If state statutes are modified to establish a "growth pays for growth" method for SAC, the Metropolitan Council should convene a group of local officials to identify any technical changes necessary for implementing the new structure.

Metro Cities supports allowing the Council to utilize the SAC 'transfer' mechanism provided for in state statute when the SAC reserve fund is inadequate to meet debt service obligations. Any use of the transfer mechanism must be done so within parameters prescribed by state law and with appropriate notification and processes to allow local official input and should include a timely 'shift back' of any transferred funds from the wastewater fund to the SAC reserve fund. Efforts should be made to avoid increasing the municipal wastewater charge in use of the transfer mechanism.

4-O Funding Regional Parks & Open Space

In the seven-county metropolitan area, regional parks essentially serve as state parks, and the state should continue to provide capital funding for the acquisition, development and improvement of these parks in a manner that is equitable with funding for state parks. State funding apart from Legacy funds should equal 40 percent of the operating budget for regional parks. Legacy funds for parks and trails should be balanced between metro and greater Minnesota.

Metro Cities supports state funding for regional parks and trails that is fair, creates a balance of investment across the state, and meets the needs of the region.

4-P Livable Communities

The Livable Communities Act (LCA) provides a voluntary, incentive-based approach to

affordable housing development, tax base revitalization, job growth and preservation, brownfield clean up and mixed-use, transit-friendly development, and redevelopment. **Metro Cities strongly supports the continuation of this approach, which is widely accepted and utilized by local communities.** Since its inception in 1995, the LCA program, administered by the Metropolitan Council, has generated billions of dollars of private and public investment, created thousands of jobs and added thousands of affordable housing units in the region.

Metro Cities supports the ongoing monitoring of the LCA programs and any necessary statutory changes to ensure that the LCA program criteria are flexible and promote the participation of all participating communities, and to ensure that all metropolitan area cities are eligible to participate in the Livable Communities Demonstration Account (LCDA).

Metro Cities supports increased funding and flexible eligibility requirements in the LCDA to assist communities with development that may not be exclusively market driven or market proven in the location, in order to support important development and redevelopment goals. Metro Cities supports the findings of a recent local-official working group that identified the need for the Metropolitan Council to expand its outreach to communities on the LCA programs and to continue efforts to ensure that LCA criteria are sufficiently flexible to meet the range of identified program objectives.

Metro Cities supports the statutory goals and criteria established for the Livable Communities Act and opposes any changes to LCA programs that constrain flexibility around statutory goals, program requirements and criteria.

Metro Cities opposes funding reductions to the Livable Communities Act programs and the transfer or use of these funds for purposes outside of the LCA program.

Metro Cities supports statutory modifications in the LCDA to reflect the linkages among the goals, municipal objectives, and Met Council system objectives.

Metro Cities supports the use of LCA funds for projects in transit improvement areas, as defined in statute, if funding levels for general LCA programs are adequate to meet program goals and the program remains accessible to participating communities.

Use of interest earnings from LCA funds should be limited to covering administrative program costs. Remaining interest earnings should be considered part of LCA funds and used to fund grants from established LCA accounts per established funding criteria.

4-Q Density

Metro Cities recognizes the need for a density policy, including minimum density requirements, that allows the Metropolitan Council to effectively plan for and deliver cost-efficient regional infrastructure and services. Regional density requirements must recognize that local decisions, needs and priorities vary, and that requirements must be sufficiently flexible to accommodate

local circumstances as well as the effect of market trends on local development and redevelopment activity.

The Metropolitan Council asks cities to plan for achieving minimum average net densities across all areas identified for new growth, development or redevelopment. Because each community is different, how and where density is guided is determined by the local unit of government. Regional density requirements should use minimum average net densities. **Metro Cities opposes parcel-specific density requirements as such requirements are contrary to the need for local flexibility in a regional policy.**

Any regional density policy must use local data and local development patterns and must accommodate local physical and land use constraints such as, but not limited to, wetlands, public open space, trees, water bodies and rights-of-way, and any corresponding federal and state regulations imposed on local governments when computing net densities.

The Metropolitan Council must coordinate with local governments in establishing or revising regional density requirements and should ensure that regional density and plat monitoring reports comprehensively reflect local densities and land uses.

Transportation Policies and Funding Introduction

Metro Cities supports a comprehensive transportation system as a vital component in planning for and meeting the physical, social and economic needs of the state and metropolitan region.

A comprehensive transportation system includes streets and bridges, transit, and multi-modal solutions that work cohesively to best meet state, regional and local transportation needs.

Adequate and stable sources of funding are necessary to ensure the development and maintenance of a high quality, efficient and safe transportation system that meets these needs and that will position the state and region to be economically competitive in the years ahead. Failure to maintain a functional transportation system will have adverse effects on the state's ability to attract and retain businesses and create jobs.

Transportation funding and planning must be a high priority for state, regional and local policymakers so that the transportation system can meet the needs of the state's residents and businesses as well as projected population growth. Funding and planning for regional and statewide systems must be coordinated at the federal, state, regional and local levels to optimally achieve long-term needs and goals.

5-A Road and Bridge Funding

Under current financing structures that rely primarily on local property taxes and fees as well as the motor vehicle sales tax (MVST) receipts, road and bridge needs in the metropolitan region continue to be underfunded. **Metro Cities strongly supports stable, sufficient and sustainable statewide transportation funding and expanded local tools to meet the transportation system needs of the region and local municipal systems.** Consideration should be given to using new, expanded and existing resources to meet these needs.

In addition, cities lack adequate tools and resources for the maintenance and improvement of municipal street systems, with resources restricted to property taxes and special assessments. It is imperative that alternative revenue generating authority be granted to municipalities and that state resources be made available for this purpose to aid local communities and relieve the burden on the property tax system. **Metro Cities supports Municipal State Aid Street (MSAS) funding.** MSAS provides an important but limited revenue source that assists eligible cities with street infrastructure needs and is limited to twenty percent of a city's street system.

Metro Cities supports state funding to assist cities over-burdened by cost participation responsibilities from improvement projects on the state's arterial system and county state aid highway (CSAH) systems.

Metro Cities supports state funding for state highway projects, including congestion, bottleneck and safety improvements. Metro Cities also supports state financial assistance, as well as innovations in design and construction, to offset the impacts of regional transportation construction projects on businesses.

Metro Cities opposes statutory changes restricting the use of local funds for transportation projects. Metro Cities opposes restrictions on aesthetic related components of transportation projects, as these components often provide important safety and other benefits to projects.

Metro Cities supports further research into the policy implications for electric and autonomous vehicles on roadways, transit, and other components of transportation systems. Metro Cities encourages the state to study the impact of electric and autonomous vehicles on transportation related funding and policies.

5-B Regional Transit System

The Twin Cities Metropolitan Area needs a multi-modal regional transit system as part of a comprehensive transportation strategy that serves all users, including commuters and the transit dependent. The transit system should be composed of a mix of High Occupancy Vehicle (HOV) lanes, High Occupancy Toll (HOT) lanes, a network of bike and pedestrian trails, Bus Rapid Transit, express and regular route bus service, exclusive transit ways, light rail transit, streetcars, and commuter rail corridors designed to connect residential, employment, retail and entertainment centers. The system should be regularly monitored and adjusted to ensure that routes of service correspond to the region's changing travel patterns.

Current congestion levels and forecasted population growth require a stable, reliable and growing source of revenue for transit construction and operations so that our metropolitan region can meet its transportation needs to remain economically competitive. **Metro Cities supports an effective, efficient and comprehensive regional transit system as an invaluable component in meeting the multimodal transportation needs of the metropolitan region and to the region's economic vibrancy and quality of life.** Metro Cities recognizes that transit service connects residents to jobs, schools, healthcare and activity centers. Transit access and service frequency levels should recognize the role of public transit in addressing equity, including but not limited to racial and economic disparities, people with disabilities and the elderly. **Metro Cities supports strategic expansion of the regional transit system.**

Metro Cities supports a regional governance structure that can ensure a measurably reliable and efficient system that recognizes the diverse transit needs of our region and addresses the funding needs for all components of the system.

Metro Cities recognizes the need for flexibility in transit systems for cities that border the edges of the seven-county metropolitan area to ensure users can get to destinations outside of the seven-county area. Metro Cities encourages the Metropolitan Council to coordinate with collar counties so that riders can get to and from destinations beyond the boundaries of the region.

5-C Transit Financing

The Twin Cities metropolitan area is served by a comprehensive regional transit system that is expanding to include rail transit and dedicated busways. Shifting demographics in the metropolitan region will mean increased demand for transit in areas with and without current transit service. **Metro Cities supports stable and growing revenue sources to fund operating and capital expenses for all regional transit providers and Metro Mobility at a level sufficient to meet the growing operational and capital transit needs of the region and to expand the system to areas that currently have insufficient transit options.** MVST revenue projections are unpredictable, and the Legislature has repeatedly reduced general fund support for Metro Transit. Thus, regional transit providers continue to operate at a funding deficit.

Operating subsidies necessary to support a regional system should come from regional and statewide funding sources and not local property taxpayers. In addition, capital costs for the expansion of regional transit system should be supported through state and regional sources, and not the sole responsibility of local units of government. **Metro Cities continues to support an advisory role for municipal officials in decisions associated with local transit projects.**

5-D Street Improvement Districts

Funding sources for local transportation projects are limited to the use of Municipal State Aid Street Program (MSAS), property taxes and special assessments. In addition, cities under 5,000 in population are not eligible for MSA. With increasing pressures on city budgets and limited tools and resources, cities are finding it increasingly difficult to maintain aging streets.

Street improvement districts allow cities in developed and developing areas to fund new construction as well as reconstruction and maintenance efforts.

The street improvement district is designed to allow cities, through a fair and objective fee structure, to create a district or districts within the city in which fees are raised on properties in the district and spent within the boundaries of the district. Street improvement districts would also aid cities under 5,000 with an alternative to the property tax system and special assessments.

Metro Cities supports the authority of local units of government to establish street improvement districts. Metro Cities also supports changes to special assessment laws to make assessing state-owned property a more predictable process with uniformity in the payment of assessments across the state.

5-E Highway Turnbacks & Funding

Cities do not have the financial capacity, other than through significant property tax increases, to absorb additional roadway responsibilities without new funding sources. The existing municipal turnback fund is not adequate based on contemplated turnbacks.

Metro Cities supports jurisdictional reassignment or turnback of roads (M.S. 161.16, Subd. 4), on a phased basis using functional classifications and other appropriate criteria subject

to a corresponding mechanism for adequate funding of roadway improvements and continued maintenance.

Metro Cities does not support the wholesale turnback of county or state roads without the consent of municipality and the total cost, agreed to by the municipality, being reimbursed to the city in a timely manner.

5-F "3C" Transportation Planning Process: Elected Officials' Role

The Transportation Advisory Board (TAB) was developed to meet federal requirements, designating the Metropolitan Council as the organization that is responsible for a continuous, comprehensive and cooperative (3C) transportation planning process to allocate federal funds among metropolitan area projects. Input by local officials into the planning and prioritization of transportation investments in the region is a vital component of these processes.

Metro Cities supports continuation of the TAB with a majority of locally elected municipal officials as members and participating in the process.

5-G Electronic Imaging for Enforcement of Traffic Laws

Enforcement of traffic laws with cameras and other motions imaging technology has been demonstrated to improve driver compliance and safety.

Metro Cities supports local law enforcement agencies having the authority to use such technology, including photos and videos, to enforce traffic laws.

5-H Transportation Network Companies and Alternative Transportation Modes

The introduction of transportation network companies (TNC) such as Lyft and Uber, vehicle sharing and other wheeled transportation modes such as bicycles and scooters, require the need for local officials to determine licensing and inspection requirements for these modes, and to address issues concerning management over public rights-of-way. Cities have the authority to license rideshare companies, inspect vehicles, license drivers and regulate access to sidewalks and streets.

Metro Cities supports the ability of local officials to regulate these transportation modes. Emerging and future transportation technologies have potentially significant implications for local public safety and local public service levels, the needs and impacts of which vary by community.

5-I Airport Noise Mitigation

Acknowledging that the communities closest to MSP and reliever airports are significantly impacted by noise, traffic and other numerous expansion-related issues:

- **Metro Cities supports the broad goal of providing MSP-impacted communities greater representation on the Metropolitan Airports Commission (MAC).** Metro Cities wants to encourage continued communication between the MAC commissioners and the cities they represent. Balancing the needs of MAC, the business community and airport host cities and their residents requires open communication, planning and coordination. Cities must be viewed as partners with the MAC in resolving the differences that arise out of airport projects and the development of adjacent parcels. Regular contact between the MAC and cities throughout the project proposal process will enhance communication and problem solving. The MAC should provide full funding for noise mitigation for all structures in communities impacted by flights in and out of MSP; and

- **Metro Cities supports noise abatement programs and expenditures and the work of the Noise Oversight Committee to minimize the impacts of MAC operated facilities on neighboring communities.** The MAC should determine the design and geographic reach of these programs only after a thorough public input process that considers the priorities and concerns of impacted cities and their residents. The MAC should provide full funding for noise mitigation for all structures in communities impacted by flights in and out of MSP.

5-J Funding for Non-Municipal State Aid (MSAS) City Streets

Cities under 5,000 in population do not directly receive any non-property tax funds for collector and arterial streets. Cities over 5,000 residents have limited eligibility for dedicated Highway User Tax Distribution Fund dollars, which are capped by the state constitution as being available for up to twenty percent of streets. Current County State Aid Highway (CSAH) distributions to metropolitan counties are inadequate to provide for the needs of smaller cities in the metropolitan area. Possible funding sources include the five-percent set-aside account in the Highway User Tax Distribution Fund, modification to county municipal accounts, street improvement districts, and/or state general funds.

The 2015 Legislature created a Small Cities Assistance Account that is distributed through a formula to cities with populations under 5,000. While the account will remain in statute, future appropriations will have to be appropriated by future legislatures.

Cities need long-term, stable, funding for street improvements and maintenance. **Metro Cities supports additional resources and flexible policies to meet local infrastructure needs and increased demands on city streets. Metro Cities also supports sustainable state funding sources for non-MSAS city streets, including funding for the Small Cities Assistance Account as well as support for the creation and funding of a Large Cities Assistance Account.**

5-K County State Aid Highway (CSAH) Distribution Formula

Significant resource needs remain in the metro area CSAH system. Revenues provided by the Legislature for the CSAH system have resulted in a higher number of projects being completed,

however, greater pressure is being placed on municipalities to participate in cost sharing activities, encumbering an already over-burdened local funding system. When the alternative is not building or maintaining roads, cities bear not only the costs of their local systems but also pay upward of fifty percent of county road projects. **Metro Cities supports special or additional funding for cities that have burdens of additional cost participation in projects involving county roads.**

CSAH eligible roads were designated by county engineers in 1956 and although only 10 percent of the CSAH roads are in the metro area, they account for nearly 50 percent of the vehicle miles traveled. The CSAH formula passed by the Legislature in 2008 increased the amount of CSAH funding for the metropolitan area from 18 percent in 2007 to 21 percent in 2011. The formula helps to better account for needs in the metropolitan region, but is only the first step in addressing needs for additional resources for the region.

Metro Cities supports a new CSAH formula more equitably designed to fund the needs of our metropolitan region.

5-L Municipal Input/Consent for Trunk Highways and County Roads

State statutes direct the Minnesota Department of Transportation (MnDOT) to submit detailed plans, with city cost estimates, at a point one-and-a-half to two years prior to bid letting, at which time public hearings are held for community input. If MnDOT does not concur with requested changes, it may appeal. Currently, that process would take a maximum of three and a half months and the results of the appeals board are binding on both the city and MnDOT.

Metro Cities supports the municipal consent process, and opposes changes to weaken municipal consent or adding another level of government to the consent process. Metro Cities opposes changes to current statutes that would allow MnDOT to disregard the appeals board ruling for state trunk highways. Such a change would significantly minimize MnDOT's need to negotiate in good faith with cities for appropriate project access and alignment and would render the public hearing and appeals process meaningless. **Metro Cities also opposes the elimination of the county road municipal consent and appeal process for these reasons.**

5-M Plat Authority

Current law grants counties review and comment authority for access and drainage issues for city plats abutting county roads.

Metro Cities opposes any statutory change that would grant counties veto power or that would shorten the 120-day review and permit process time.

5-N MnDOT Maintenance Budget

The state has failed in its responsibility for maintaining major roads throughout the state by

requiring, through omission, that cities bear the burden of maintaining major state roads.

MnDOT should be required to meet standards adopted by cities through local ordinances, or reimburse cities for labor, equipment and material used on the state's behalf to improve public safety or meet local standards. Furthermore, if a city performs maintenance, the city should be fully reimbursed.

Metro Cities supports MnDOT taking full responsibility for maintaining state-owned infrastructure and property, including, but not limited to, sound walls and right of way, within city limits. Metro Cities supports cooperative agreements between cities and MnDOT, which have proven to be effective in other parts of the state.

5-O Transit Taxing District

The transit taxing district, which funds the capital cost of transit service in the Metropolitan Area through the property tax system, is inequitable. Because the boundaries of the transit taxing district do not correspond with any rational service line nor is being within the boundaries a guarantee to receive service, cities within and outside of the taxing district are contributing unequally to the transit service in the Metropolitan Area. This inequity should be corrected.

Metro Cities supports a stable revenue source to fund both the capital and operating costs for transit at the Metropolitan Council. However, Metro Cities does not support the expansion of the transit taxing district without a corresponding increase in service and an overall increase in operational funds. To do so would create additional property taxes without a corresponding benefit.

5-P Complete Streets

A complete street may include: sidewalks, bike lanes (or wide paved shoulders), special bus lanes, comfortable and accessible public transportation stops, frequent and safe crossing opportunities, median islands, accessible pedestrian signals, curb extensions, narrower travel lanes and more.

A complete street in a rural area will differ from a complete street in a highly urban area, but both are designed to balance safety and convenience for everyone using the road.

Metro Cities supports options in state design guidelines for complete streets that would give cities greater flexibility to:

- **Safely accommodate all modes of travel;**
- **Lower traveling speeds on local streets;**
- **Address city infrastructure needs; and**

- **Ensure livability in the appropriate context for each city.**

Metro Cities opposes state-imposed mandates that would increase street infrastructure improvement costs in locations and instances where providing access for alternative modes including cycling and walking are deemed unnecessary or inappropriate as determined by local jurisdictions.

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LEAGUE OF MINNESOTA CITIES

2019 LEGISLATIVE PRIORITIES

The League of Minnesota Cities promotes excellence in local government through effective advocacy, expert analysis, and trusted guidance for all 853 Minnesota cities.

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City Street Funding

The League calls for a dedicated and sustainable state funding source for non-Municipal State Aid city streets, legislation that would allow cities to create street improvement districts, and grant funding for cities burdened by cost participation requirements.

Housing

The League supports funding for workforce housing and affordable housing programs, including resources in a bonding bill.

Infrastructure Fees

The League supports legislation that will give cities the ability to impose infrastructure fees so new development pays its fair share of public infrastructure needed to serve growing communities.

Local Control

The League opposes legislation that erodes local control in cities across Minnesota.

Local Government Aid Funding

The League calls for a restoration of the local government aid system to at least the 2003 certified level of $586.8 million.

Police and Fire Disability Benefits

The League supports fully funding the Public Safety Officers Benefit Account to reimburse local units of government for the cost of health insurance benefits for firefighters and peace officers injured in the line of duty, and for dependents of officers killed in the line of duty.

Presidential Primary

The League supports legislation to expand eligible reimbursements, limit party affiliation data dissemination to political parties only, and allow for mail balloting.

Sales Tax Exemption on Construction Materials

The League supports legislation to streamline the process required for cities to secure the sales tax exemption on construction materials.

Telecommunications

The League supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving local regulatory authority.

Urban Forest Management Funding

The League supports at least $5 million per year for a state matching grant program to assist cities with emerald ash borer, and to build cities' capacity to respond to other catastrophic urban forest problems.

Water Policy and Funding

The League supports technical and financial resources needed for drinking water, stormwater, and wastewater infrastructure. The League will continue to work to ensure that non-city water users are held accountable for their impacts on water quality and quantity.

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2019
City Policies

For Legislative and
Administrative Action

Adopted November 15, 2018

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Kevin Toskey, Research Staff Attorney, League of Minnesota Cities
George Tourville, Mayor, Inver Grove Heights
Charlie Vander Aarde, Government Relations Specialist, Metro Cities
Clay Wilfahrt, City Administrator, Big Lake
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul

Human Resources & Data Practices

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Vice Chair: Melissa Haas, Human Resources Manager, Apple Valley

Julianne Bacon, City Management Assistant, Coon Rapids

Jessica Beise, City Clerk/Administrative Services Coordinator, Corcoran
Sasha Bergman, Government Relations Representative, Minneapolis
Kelli Bourgeois, Human Resources Director / Asst. to the City Manager, Columbia Heights
Dick Brainerd, Councilmember, Mahtomedi
Mark Casey, City Manager, St. Anthony*
Bob Crawford, Mayor, Elko New Market
Aisia Davis, Staff Attorney, League of Minnesota Cities
Emmanuel Emukah, Research Staff Attorney, League of Minnesota Cities
Julie Flaten, Administrative Services Director, Hastings
Mike Funk, Assistant City Manager, Maplewood
Jennifer Gabbard, Human Resources Manager, Shakopee
Karissa Goers, Human Resources Administrator, Dakota County CDA
Melissa Haas, Human Resources Manager, Apple Valley
Corrine Heine, City Attorney, Minnetonka
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Steve Huser, Government Relations Specialist, Metro Cities
Givonna Kone, Human Resources Manager, Plymouth
Melissa Lesch, Senior Government Relations Representative, Minneapolis
Melissa Manderschied, City Attorney, Bloomington
Ben Martig, City Administrator, Northfield
Patricia Nauman, Executive Director, Metro Cities
Noel Nix, Deputy Director of Intergovernmental Relations, Saint Paul
Rebecca Olson, Assistant City Manager, Roseville
Chelsea Petersen, Assistant City Manager, Chanhassen
Gene Ranieri, Director of Intergovernmental Relations, Minneapolis
Donna Robole, Human Resources Manager, Stillwater
Deborah Schulz, Accountant, Newport
Janet Shefchik, Human Resources Manager, Inver Grove Heights
Andrea Turner, Director of Human Resources, Saint Paul
Kevin Toskey, Research Staff Attorney, League of Minnesota Cities
Deb Wegeleben, Finance Director, Big Lake
Brenda Wendlandt, Human Resources Director, Farmington
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul

Improving Fiscal Futures

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Bob Crawford, Mayor, Elko New Market
Emmanuel Emukah, Research Staff Attorney, League of Minnesota Cities
Anthony Fernandez, Councilmember , West Saint Paul
Jason Gadd, Councilmember, Hopkins
Kelly Grinnell, Finance Director, Victoria
Shannon Guernsey, Executive Director, Minnesota NAHRO
Marshall Hallock, Administrative Business Director, Red Wing
Dana Hardie, Director of Administrative Services, Burnsville

Lisa Herbert, Finance Director, Rogers
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Tom Lawell, City Administrator, Apple Valley
Melissa Lesch, Senior Government Relations Representative, Minneapolis
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Steve Nasby, City Administrator, Windom
Patricia Nauman, Executive Director, Metro Cities
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Aaron Parrish, Assistant City Administrator, Rochester
Michelle Pietrick, Finance Director, South St. Paul
Gene Ranieri, Director Intergovernmental Relations, Minneapolis
Aaron Reeves, City Administrator, Cloquet
Paul Sandy, City Engineer, Brainerd
Jonathan Smith, Manager, Perham
Steve Stahmer, City Administrator, Rogers
Kurt Ulrich, City Administrator, Ramsey
Deb Wegeleben, Finance Director, Big Lake
Jim Weikum, Mayor, Biwabik
John Werner, Mayor, Rice Lake
Brad Wiersum, Mayor, Minnetonka*
ThaoMee Xiong, Director of Intergovernmental Relations, Saint Paul
Nancy Zaworski, Finance Director, Kasson

*LMC Board of Director

LMC POLICY DEVELOPMENT PROCESS

The *City Policies* document addresses more than 180 legislative issues that impact cities and serves as the foundation of the League of Minnesota Cities (LMC) advocacy efforts. City officials from across the state are recruited throughout the year to serve on one or more policy committees. In 2018, over 150 city officials participated in the policy committees. Policies are considered, discussed, and revised annually with considerable member input. Then, draft policies are published online for member comments before being considered for approval by the LMC Board of Directors. Guided by the *City Policies*, LMC member cities and staff actively advocate for city-friendly legislation. Below are some of the major events in the policy development process:

January	The Minnesota Legislature begins the first session of each two-year biennium in January of odd-numbered years. The 2019 Legislative Session is scheduled to begin on January 8, 2019.
February	The Legislature typically begins the second session of each biennium in February or March of even-numbered years. The February forecast will likely be released at the end of February or early March.
March/April	From March 10-13, the National League of Cities (NLC) hosts the Congressional City Conference in Washington, D.C. The League's legislative conference will be held on February 20-21, 2019 near the State Capitol.
May	Under the Minnesota Constitution, the deadline to end any legislative session is the first Monday following the third Saturday in May (May 20, 2019). The governor may call special legislative sessions when necessary.
June	At the LMC Annual Conference (Duluth, June 26-28, 2019), members provide comments on *City Policies* throughout the conference and during the Legislative Update.
July	Policy committees hold their first of three meetings. The July meeting typically includes a review of the most recent legislative session, a preliminary discussion of emerging issues, and a review of member comments and board interim policies from the prior year.
August	Policy committees hold their second of three meetings to hear from subject-matter experts on existing and potential new policy topics.
September	Policy committees meet for a third time to finalize their work and make specific policy recommendations to the LMC Board of Directors.
October	Draft policies, as approved by the policy committees, are shared with members online during the comment period. Member input is also sought from city officials attending LMC Regional Meetings around the state each fall.
November	The LMC Board of Directors reviews member input, then considers and amends the policies for the following calendar year. The Board adopts policies on behalf of League members before the start of the next legislative session.

PURPOSE, PROCESS AND PRINCIPLES OF CITY POLICIES

The League of Minnesota Cities is dedicated to promoting excellence in local government through effective advocacy, expert analysis, and trusted guidance for all Minnesota cities. Each year, the League's member cities identify common needs and goals, and the Board of Directors adopts policies designed to help cities overcome obstacles and reach those goals. These policies serve as the foundation of the League's advocacy work on behalf of Minnesota cities.

There are 853 cities in Minnesota, and 833 cities are members of the League of Minnesota Cities. Eleven townships and 63 special districts/other members are also League members. The League's members include the smallest rural cities in Greater Minnesota and the largest cities in the urban core; they include suburban communities in the Metropolitan Area and regional centers in every corner of the state. Every member of the League has a voice in developing the following policies.

Two core principles guide the development of City Policies and the actions of the League:

1. Local units of government must have sufficient authority and flexibility to meet the challenges of governing and providing citizens with public services. The Legislature must avoid imposing unfunded and underfunded mandates that erode local control and create liability and financial risk for city taxpayers.

2. The increasingly complex and costly requirements necessary for cities to provide services to their citizens require a strong partnership between federal, state, and local governments. This partnership should be based upon a shared vision for Minnesota and should allow individual communities to tailor that vision to the unique needs of their citizens.

Because of the fluid nature of emerging issues, state and national politics, and current events, additional and alternative policies may be proposed after the policies are adopted by the Board of Directors. The League will make every effort to notify members of substantial changes or additions to policies after they are adopted by the Board of Directors.

LEAGUE OF MINNESOTA CITIES

2019
City Policies

IMPROVING SERVICE DELIVERY

SD-1. Local Control

Issue: Cities are often laboratories for determining public policy approaches to the challenges that face citizens. Success in providing for the basic needs of a functional society is rooted in local control to determine how best to respond to the ever-changing needs of a citizenry. Because city government most directly impacts the lives of people, and representative democracy ensures that locally elected officials are held accountable for their decisions through local elections, local governments must have sufficient authority and flexibility to meet the challenges of governing and providing citizens with public services.

Response: **The increasingly complex and costly requirements necessary for cities to provide services to their citizens would benefit from a strong partnership between federal, state and local governments. This partnership should be based upon a shared vision for Minnesota and should allow individual communities to tailor that vision to the unique needs of their citizens without mandates and policy restrictions imposed by state and federal policy makers. The state should recognize that local governments, of all sizes, are often the first to identify problems and inventive solutions to solve them, and should encourage further innovation by increasing local control. The state should not enact initiatives that erode the fundamental principle of local control in cities across Minnesota.**

SD-2. Unfunded Mandates

Issue: Federal and state mandated programs substitute the judgment of Congress, the president, the Minnesota Legislature, and the governor for local budget priorities. These mandates force cities to reduce funding for other basic services or to increase taxes and service charges.

Response:

a) **Existing unfunded mandates should be reviewed and modified, or repealed where possible.**
b) **No additional statewide mandates should be enacted unless full funding for the mandate is provided by the level of government imposing it or a permanent stable revenue source is established.**
c) **Cities should not be forced to comply with unfunded mandates.**
d) **Cities should be given the greatest flexibility possible in implementing mandates to ensure their cost is minimized.**
e) **The legislative government redesign groups created in 2010 should consider the various unfunded mandates as they look at local government reform and redesign and make recommendations for the next session.**

SD-3. Local Approval of Special Laws

Issue: The Minnesota Constitution prohibits special legislation except for certain special laws relating to local government. It provides that a special law must name the affected local unit of government and is effective only after approval by the local government unit, unless general state law provides otherwise. Under state statute, a special law is not effective unless approved by the affected local unit of government, except under limited circumstances.

In recent years, the Legislature has occasionally enacted general laws that affect a single local unit of government. By enacting a general law with limited application, local approval is not required.

Response: **The League of Minnesota Cities supports the constitutional requirement that a special law must be approved by the affected local unit of government before it can take effect. If a law is intended to affect or benefit a single local unit of government, the Legislature must follow the requirements for enacting a special law set forth in the Minnesota Constitution and in state statute. The League specifically opposes the Legislature's technique of bypassing the constitution by not naming the local government, but describing the local government in such narrow terms that it can only apply to one entity.**

SD-4. Redesigning and Reinventing Government

Issue: Every level of government is redesigning, reinventing, and reevaluating its organizational structure and programs in response to financial realities and citizens' needs and problems. Reforms, however, must be more than change for the sake of change to existing programs. It is imperative that government officials talk with citizens about how services are currently provided and how they can be best provided in the future.

To be meaningful, redesign of governmental entities and services should:

a) save money where feasible;
b) deliver improved services;
c) serve essential needs; and
d) be equitably structured.

Cities have and will continue to re-evaluate city programs and services, pursue the use of cooperative agreements, and consider organizational changes that provide greater government efficiency and result in better service to citizens. Citizen input and participation should be gathered and taken into account as decisions about service delivery are being made and implemented.

All levels of government are encouraged to:

a) Ensure that in redesigning, reinventing or reassigning government services and programs, the appropriate level of service to citizens is evaluated and citizen demands and expectations are adequately addressed.
b) Engage as many citizens as possible, from diverse backgrounds and interests, to determine what services matter most to citizens and how the delivery of those services can be changed to increase efficiency and lower cost.
c) Educate citizens about what services government delivers, how they are delivered, and how those services are funded.
d) Engage in traditional and nontraditional partnerships to make service changes and do things in new ways.
e) Identify and repeal programs or discontinue services that are no longer necessary, and evaluate which services can readily and fairly be provided by the private sector.

Response: **Federal, state, and county governments should:**

a) Promote and support local redesign efforts through incentives rather than mandates.
b) Communicate and establish a process of negotiation before shifting responsibility for delivering services from one level of government to

another, or seeking to reduce service duplication.

c) **Utilize government entities with proven track records in redesign efforts.**

SD-5. State Government Shutdowns

Issue: Twice in less than one decade, the state Legislature and governor failed to reach a global agreement on the state budget by the end of the fiscal biennium (June 30 of odd-numbered years). As a result of these impasses, portions of state government were shut down. The shutdowns, particularly the shutdown in 2011, created a range of challenges for cities, as well as for the state's courts, residents, businesses, licensed professionals, state employees and others.

For cities, the most pronounced challenges related to the shutdowns were as follows:

a) Uncertainty about the timing and amount of aid and credit reimbursement payments and the distribution of local sales tax revenues.
b) Inability of licensed city professionals such as peace officers and water treatment facility operators to renew licenses.
c) Loss of access to critical information such as the Bureau of Criminal Apprehension database and state-mandated reports.
d) The shutdown of transportation projects on the trunk highway and state aid system.
e) Interruption of local economic development due to the state having sole authority to inspect, review and approve various plans and types of projects.

Response: **The League of Minnesota Cities urges the Legislature and governor to establish a procedure in state law to continue certain state government operations into a new biennium in the event that the governor and legislators cannot reach a budget agreement. Specifically, the Legislature and governor should modify state law to assure that the staff necessary to distribute state funds that are already encumbered or statutorily appropriated to local governments are distributed as statutorily scheduled, or in the absence of a statutory payment schedule, are released in a predictable and timely manner in the event of future shutdowns.**

The Legislature should also pass legislation that allows existing licenses of public employees to be continued during any future state government shutdown and should identify additional areas, such as electrical and plumbing inspection and plumbing plan review, where local governments could reasonably step in to handle the inspections, review, and approval necessary for local projects to move forward, and allows work on approved projects to continue in state rights-of-way.

SD-6. Duration of Conservation Easements

Issue: The Minnesota Marketable Title Act provides that any deed over 40 years old can be disregarded unless the holder of the interest re-records it. There is an exception for a person in possession of the property. A 2010 Minnesota Supreme Court decision said that the person in possession has to show that the possession has been visible enough to put a prudent person on notice of the interest, and that the possession has to be continuous. *Sampair v. Village of Birchwood*, 784 N.W.2d 65 (Minn. 2010).

This creates issues for cities that have conservation easements. It is difficult, if not impossible, to show actual use of the

easement because conservation easements are passive easements, not active ones. As a result, cities will have to re-record the easements every 40 years in order to maintain them. This will result in a significant administrative burden and increase costs for local units of government due to staff time, legal fees, and recording fees.

Additionally, Minn. Stat. § 500.20, entitled "Defeasible Estates," provides in subd. 2a that private covenants, conditions, or restrictions that affect the title or use of real estate cease to be valid 30 years after the date of the instrument creating them and they may be disregarded. This provision was initially enacted in 1988.

Minn. Stat. ch. 84C regarding conservation easements was enacted in 1985, and Minn. Stat. §§ 84.64-.65 regarding conservation restrictions were originally enacted in 1974. Because conservation easements and conservation restrictions are not listed among the restrictions that are not subject to Minn. Stat. § 500.20, subd. 2a, it is possible to conclude, by negative implication, that subd. 2a does apply to the conservation easements and conservation restrictions created by earlier enacted statues. This conclusion is inconsistent with the language in Minn. Stat. § 84C.02(b) that "a conservation easement is unlimited in duration unless the instrument creating it otherwise provides."

Response: **The League of Minnesota Cities supports legislation that excepts holders of conservation easements from re-recording the easements under the Minnesota Marketable Title Act and that clarifies that Minn. Stat. § 500.20, subd. 2a, does not apply to conservation easements and restrictions.**

SD-7. Responsibility for Locating Private Underground Facilities

Issue: Cities are responsible for complying with state pipeline safety regulations that hold cities responsible for locating and marking private service laterals that connect in public rights-of-way to city sanitary and storm sewer, water, and district heating systems. The Minnesota Office of Pipeline Safety (MNOPS) is proposing amendments to state pipeline and safety rules related to the definition of excavation and changes to mandatory damage reporting.

Cities are concerned that damage to private service laterals within the public right-of-way continues due, in part, to construction methods during the replacement, repair and/or installation of underground utilities which cross city water and sewer services that are in the public rights-of-way. Trenchless excavation could potentially cause damage to underground service laterals and negatively impact the quality of utility services.

Response: **The League supports the changes to the definition of excavation presented by MNOPS at the 2012 Review of Minn. Stat. ch. 216D. Cities support the elimination of windbreaks, shelterbelts, and tree plantations from the definition of excavation, unless any of these activities disturbs the soil to a depth of 18 inches or more.**

The League supports exempting normal maintenance of roads and streets from the definition of excavation if the maintenance does not change the original grade and does not involve the road ditch by defining "original grade" as the grade at the date of issue of the first notice by the excavator.

The League supports increasing MNOPS fines for violators of state pipeline safety requirements, bringing state penalties in line with federal penalties.

The League opposes mandatory damage reporting and recommends a simple standardized form to encourage cities to voluntarily report damages. The League opposes requirements that would force cities to mark underground facilities of all sizes and materials.

The League recognizes that trenchless excavation presents concerns to cities. Private property owners in the excavation area must receive advance notice of any trenchless or other excavation activities that could affect the quality of utility services. Notice must include at least one phone number for assistance in case of any service problems.

Contractors must comply with city permits requiring that the drill head be visible when crossing any paint marks and moving through the pothole at the depth that the city allows for the installation.

Cities must not be required to locate privately-owned water and sewer laterals and must not be held responsible for actions by excavators when the city determines not to locate such facilities. Excavators should be responsible for locating and protecting any private service lateral that is impacted by excavation activities conducted on private property beyond the public right-of-way.

SD-8. Utility Relocation Under Design-Build Road Construction

Issue: The Minnesota Department of Transportation (MnDOT) has promoted legislation relating to the design-build construction process that would require private and public utilities to be responsible for utility relocation necessitated by road construction. The policy, if enacted, would create unanticipated costs for utilities owned and operated by cities. Municipally-owned utilities would be unreasonably held to the same standards as privately-owned utilities that exist in the public right-of-way.

Response: **The League of Minnesota Cities supports use of the design-build procedure, however, municipal utilities that exist in the public right-of-way should not be penalized under this process. Municipal utilities legitimately exist in the public right-of-way. When a MnDOT construction project requires the relocation of utilities, the cost of relocating municipal utilities should be shared equitably between MnDOT and affected municipal utilities.**

SD-9. National Fire Protection Association (NFPA) Standards

Issue: The National Fire Protection Association (NFPA) is an international association of individuals and trade and professional organizations that deals with fire and life safety. The NFPA has advocated legislation that would mandate two standards: NFPA 1710, Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments, and NFPA 1720, Organization and Deployment of Fire Suppression, Emergency Medical Operations, and Special Operations to the Public by Volunteer Fire Departments. NFPA standards 1710 and 1720 define minimum response times, minimum fire company staffing levels, initial full alarm response levels, and extra alarm response levels. Although NFPA codes and standards

are voluntary, they are often adopted by local jurisdictions.

Response: **Levels of service delivery for fire and emergency medical services (EMS) have always been determined by local jurisdictions. If mandated, the NFPA standards would force local governments to shift dollars from fire prevention programs to fire suppression activities, potentially increasing the risk of fire and the danger to local firefighters.**

The League of Minnesota Cities opposes any attempt to mandate standards for minimum staffing levels of fire, specialized or EMS vehicles controlled by units of local government. The League also opposes any attempt to adopt a standard dictating or affecting the response time of any fire, specialized or EMS vehicle.

SD-10. Fire Mutual Aid

Issue: City and township fire departments regularly assist each other with firefighting and other response activities. This mutual aid is mostly authorized by individual written contracts with each city or township, which results in a patchwork of different agreements with different provisions. Often, each city attorney recommends different provisions.

Following the Red River floods and the St. Peter tornados, emergency responders (including fire departments) met and helped pass a statute to govern mutual aid situations when there is an emergency declared by mayor or governor and no written agreements exist. The statute, Minn. Stat. § 12.331, provides a framework for how worker's compensation, liability, property claims, insurance, and charges between the departments will be handled in mutual aid situations.

The League of Minnesota Cities Insurance Trust (LMCIT) developed a model mutual aid agreement that contains the same basic structure for liability as the statute. Many cities have entered into area-wide mutual aid agreements that are similar to the LMCIT model agreement. To provide uniformity, there should be a statute that is similar to Minn. Stat. § 12.331, to govern daily fire mutual aid situations that do not rise to the level of emergencies.

Response: **The Legislature should pass a statute to provide uniform provisions when fire departments assist each other. These provisions should include statutory definitions and clarifications for:**

a) **Who is in command of the mutual aid scene.**
b) **Who will cover the firefighters for worker's compensation.**
c) **How liability and property claims will be handled.**
d) **Who will pay for expendable supplies such as foam.**
e) **When fire departments will charge each other for these services.**
f) **The ability for fire departments to opt out by having a separate written agreement.**

SD-11. Clarification of Joint Powers Relationships with Federally Recognized Indian Tribes

Issue: During the 2010 legislative session, Minn. Stat. § 471.59 was modified to allow federally recognized Indian tribes to participate in joint powers agreements with other governmental entities, including Minnesota cities. Indian tribes are extremely unique legal entities under federal law and international treaties. The new law was a broad brush authorization that did not address important issues that uniquely arise

when dealing with Indian tribes related to sovereignty, insurance liability and liability limits (commonly called "tort caps"). Previous laws, such as Minn. Stat. § 626.93 (authorizing tribes to act as law enforcement entities) explicitly addressed these concerns. Since the new law passed, interest has been expressed by public safety groups and individual cities in entering into joint powers agreements with federally recognized Indian tribes. However, legislative guidance is needed to address concerns related to sovereignty, insurance and liability limits for these agreements.

Response: **Include in Minn. Stat. § 471.59 (the joint powers statute) language substantially similar to Minn. Stat. § 626.93 that clarifies that Indian tribes entering into joint powers relationships agree to:**

a) **Be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the joint powers agreement to the same extent as a municipality under Minn. Stat. ch. 466; and**
b) **Notwithstanding Minn. Stat. § 16C.05, subd. 7, waive its sovereign immunity with respect to claims arising from liability under the joint powers.**

SD-12. Ambulance Service Costs and Liability

Issue: The cost of providing ambulance care has increased steadily over the last several years due in part to changes in Medicare reimbursement. The federal Balanced Budget Act (BBA) of 1997 made two significant changes to ambulance billing. First, the act mandated that all ambulance services accept Medicare assignments as payment in full; that is, ambulance services cannot bill the Medicare patient for any unpaid balance beyond the Medicare payment. Second, the act mandated a uniform fee schedule that was implemented in April 2002. The new fee schedule significantly reduced reimbursement levels for many ambulance services. The BBA mandates are impacting the ability of some Minnesota ambulance service providers to adequately fund their operations.

The loss of revenue due to Medicare reimbursement changes, coupled with higher insurance rates, is affecting the ability of many non-government-based ambulance service providers to deliver emergency care, particularly in rural Minnesota. All ambulance services and personnel are regulated by Minn. Stat. ch. 144E and must comply with the same licensing, training, and equipment-related requirements, regardless of ownership. However, non-government-based ambulance service providers are treated differently from government-based service providers in terms of exposure to liability. While government-based ambulance service providers have specific statutory caps on damages that limit their liability, non-government-based ambulance service providers are not protected by such caps. Consequently, non-government-based ambulance service providers have experienced inordinate growth in their insurance rates.

Non-government-based ambulance service liability exposure is a concern for three reasons. First, municipalities that contract for ambulance service may be required to purchase excess liability coverage in order to protect non-government-based ambulance service providers against claims. Second, it may discourage mutual aid agreements between government- and non-government-based ambulance service providers. Finally, unlimited liability exposure threatens the existence of small, non-government-based rural ambulance providers, which could

leave large geographic areas without any ambulance service and undermine emergency response to mass casualty incidents.

In addition, the liability exposure of medical directors associated with ambulance service is a concern. While medical directors of government-based ambulance services may arguably be covered by public official immunity, the law is unclear and should be clarified.

Response: **The League of Minnesota Cities supports federal legislation that would:**

a) **Require Medicare to set ambulance payment rates at the "regional cost" of providing service;**
b) **Require adequate reimbursement for ambulance providers;**
c) **Establish a "prudent layperson" standard for the payment of emergency ambulance claims such that if a reasonable person believed an emergency medical problem existed when the ambulance was requested, Medicare would pay the claim;**
d) **Make it easier for providers to file claims with Medicare by eliminating a processing system that often leads to the rejection of legitimate reimbursement claims.**

The League also urges the Legislature to extend the protection of the state and municipal Tort Claims Act to, at a minimum, licensed third parties that contract with a municipality to provide ambulance services. The League also supports extending the applicability of public official immunity to medical directors in the course of ambulance service activities.

SD-13. Fees for Service

Issue: While general services—such as permitting, inspections or enforcement—are typically funded out of a city's general fund, cities often impose fees to cover the cost of providing certain services, permits, and licenses.

The Legislature and interest groups often seek to mandate or preserve fee limitations for city services. Over the last several years, the Legislature has enacted a number of new laws designed to rigorously control local fee-setting authority. Examples of such mandates include placing limits on coin-operated amusement machine license fees, on-sale and off-sale liquor license fees, license fees for retailers selling fireworks, deputy registrar fees and planning and zoning fees. The state also requires cities that collect more than $5,000 in development-related fees each year to annually report all construction and development fees to the Department of Labor and Industry.

Response: **While the state has a role in providing a general, statewide funding policy, the state should not interfere in the decision-making functions performed by cities when setting city budgets to provide city services. The League of Minnesota Cities seeks authority for cities to charge fees that are reasonably related to the cost of providing the service, permit or license. The League opposes legislation that would require specific methods to pay for city services or would place caps on city fees.**

SD-14. Improving and Increasing Citizen Access to Information

Issue: State law requires that cities publish certain types of information in a "qualified" newspaper designated by the city. While the

requirements vary based on city population size, most cities must publish: ordinances before they can take effect; advertisements for bids; various financial reports; meeting and hearing notices; notices of elections; dates for filing affidavits of candidacy; and sample ballots. Collectively, these items are referred to as "official notices," legal notices" and "public notices" in state statute.

There are several requirements in statute for a newspaper to be a "qualified" or "official" newspaper for the city. For instance, there can only be one newspaper chosen for the city; it must be printed in English in a newspaper format; if it is a daily newspaper, it must be distributed at least five days each week; if not a daily paper, it may be distributed twice a month with respect to the publishing of government public notices; it must be circulated in the city which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers or have at least 400 copies distributed without charge to local residents.

As technology has evolved, citizens have become more accustomed to the instantaneous availability of online information. Because cities are committed to providing information to citizens and responding to this demand, they have invested heavily in their websites and in growing a robust online presence. They survey citizens about what method of communication is preferred and based on this, cities update, reform, evolve, and advance communication tools and often, they do so with limited means and resources to ensure citizens have access to information about their city.

Because of the publishing mandate outlined in state statute, cities continue to publish in newspapers with limited resources while simultaneously providing information to citizens in the format they actually demand: online. These requirements originated in 1949 and to ensure the original intent of the law – providing citizens access to their local government – it is time to eliminate these outdated requirements and make communicating with citizens more efficient.

Response: **The Legislature should eliminate outdated and unnecessary publication requirements that are no longer relevant or representative of the technology we now have that has significantly increased access to government. Cities should have the authority to:**

a) **Determine whether web publication should replace or supplement newspaper publication based on the unique needs of each community.**
b) **Designate an appropriate publication that reaches the maximum number of citizens possible.**
c) **Use alternative means of communication to fulfill statutory requirements such as city newsletters, cable television, video streaming, e-mail, blogs and city websites.**
d) **Expand the use of summaries where information is technical or lengthy.**
e) **Publish and provide public access to local codes of ordinances on a website accessible to the public and to post revisions and changes to city codes, resolutions, and rules on the city website, when feasible.**

SD-15. Administrative Fines for Code Violations

Issue: Many statutory and home rule charter cities have implemented administrative enforcement programs for violations of local regulatory ordinances such as building codes, zoning codes, health codes, and public nuisance ordinances. This use of administrative proceedings has kept

enforcement at the local level and reduced pressure on over-burdened district court systems. Cities using administrative enforcement processes experience a lower cost of enforcement and a quicker resolution to code violations.

Minnesota statutes expressly provide the authority for all cities to utilize administrative enforcement of local codes and enforcement of liquor license and tobacco license violations.

In 2009, the Legislature amended Minn. Stat. ch. 169, the chapter of law pertaining to state traffic regulations, to allow cities and counties to issue administrative citations for certain minor traffic offenses. Since the passage of the 2009 administrative traffic citations law, some people have questioned whether administrative citations for non-traffic, liquor, and tobacco license code violations can be legally issued by statutory cities given that state law does not expressly provide authority on other code matters.

Response: **The League of Minnesota Cities continues to support the use of city administrative fines for local regulatory ordinances, such as building codes, zoning codes, health codes, public nuisance ordinances, and regulatory matters that are not duplicative of misdemeanor or higher-level state traffic and criminal offenses. The Legislature should clarify that both statutory and home rules charter cities have the authority to issue administrative citations for code violations. Further, state statute should allow statutory and home rule charter cities to adjudicate administrative citations and to assess a lien on properties for unpaid administrative fines.**

SD-16. Contracting and Purchasing

Issue: Minnesota statutes stipulate contracting and purchasing requirements for Minnesota cities. The law prescribes the process political subdivisions must use to make purchases and award contracts, and requires a competitive sealed bid procedure for contracts or purchases over $175,000. The intent of these statutory requirements is to provide taxpayers with the best value for their dollar and ensure integrity in the process. However, imposing these statutory requirements may, at times, result in political subdivisions paying more for goods and services than private entities under the same circumstances.

The Legislature recognized the benefits associated with alternative purchasing methods when it amended municipal contracting law in 2004 to authorize the use of reverse auctions to purchase supplies, materials, and equipment. Similarly, other contracting procedures, including "design-build" and direct negotiation are proven alternatives to the formal bidding process. Authorizing broader use of these types of alternatives as the Legislature did in 2009 by authorizing a design-build pilot program, would enhance the ability of cities to make appropriate and fiscally responsible purchasing decisions.

Response: **The League of Minnesota Cities supports broader use of alternative contracting and purchasing methods that streamline the process and reduce local purchasing costs. Specifically, the League supports authorizing cities to use the design-build procedure and providing municipalities with broader authority, similar to that of private businesses, to directly negotiate contracts. The Legislature should establish a task force to review municipal contracting laws, and consider contracting and purchasing**

reforms that give cities the flexibility to provide quality goods and services at the lowest cost to taxpayers.

SD-17. City Enterprise Operations

Issue: Historically, city enterprise operations have been created in response to community needs, lack of a private market, financial reporting requirements, state and federal mandates, to enforce state and local law, and to ensure a quality of life for the residents of a community. Establishing an enterprise operation allows a city to provide a desired service while maintaining financial control over service levels, costs, and public inputs.

In some cases, enterprise operations produce general public benefits and may require public support to ensure a desired level of service at a reasonable cost. The benefits of an enterprise operation, therefore, should be evaluated not solely in terms of profitability but also on the service benefits to citizens of the community.

Response: **The League of Minnesota Cities supports the local decisions made by cities to deliver services by establishing a city enterprise operation. The state should refrain from infringing on the ability of a city to provide services for its community.**

SD-18. Preservation of Order in City Council Meetings

Issue: The Minnesota Supreme Court recently held a provision in Minn. Stat. § 609.72, subd. 1(2), that prohibits disturbing public meetings was unconstitutionally broad. *State v. Hensel*, A15-0005 (Minn. 2017). Minn. Stat. § 412.191 gives statutory authority to city councils to preserve order and regulate procedure at their meetings. Cities rarely relied on the struck-down statute, but instead used other avenues to maintain order, such as issuing warnings and enforcing decorum rules. The struck-down statute served as a last resort when other options did not work.

Response: **The Legislature should ensure statutes adequately balance public participation with the ability to effectively manage public meetings and protect public safety.**

SD-19. Constitutional Amendments

Issue: The Minnesota Constitution requires that a constitutional amendment be approved by a simple majority of both chambers of the Legislature at one session, and must then be ratified by a majority of all the voters voting at the election. Minnesota is one of 18 states that require a simple majority vote by legislators while 26 states require a higher threshold (17 states require a two-thirds majority and nine require a three-fifths majority). Since statehood, 215 proposed constitutional amendments have been voted on by the electorate; 120 of them have been approved (56%) and 95 rejected (44%).

Cities provide a variety of critical and essential services to residents of Minnesota. Many public policy decisions at the state level impact cities and therefore, city officials depend on their state legislators to represent city interests at the Legislature.

Additionally, unlike a statutory change, a constitutional amendment is difficult to modify or repeal once enacted.

Response: **The League of Minnesota Cities strongly supports our representational system of government and opposes laws and amendments that restrict local government. The Legislature is the appropriate governing body to consider and enact laws that reflect**

statewide interests. Utilizing constitutional amendments to change public policy circumvents this process.

Therefore, the League supports requiring a supermajority vote (two-thirds in support) by the Legislature to put an amendment on the ballot.

SD-20. Initiative and Referendum

Issue: The Legislature has frequently considered legislation to establish initiative and referendum by proposing to place a question for voter approval on the state general election ballot to amend the state constitution to allow voters to initiate or repeal state laws by submitting a petition which would cause such questions to be placed on the state general election ballot.

Response: **Cities strongly support our representational system of governance and, therefore, oppose amending the state constitution to provide for initiative and referendum. The Legislature is the appropriate governing body to consider and enact public policy that reflects statewide interests.**

The process of adopting state law based on good public policy is best upheld and supported by increasing the accountability and responsiveness of the legislative process, not by circumventing it. Presenting complex issues to voters in the guise of direct democracy further weakens representative government.

A state constitutional amendment to provide for initiative and referendum subjects cities and their residents and taxpayers to the unintended outcomes of sometimes unwise attempts to place significant public policy decisions into the hands of special interests that can raise unlimited funds for the purpose of promoting their more narrow interests.

SD-21. Civil Liability of Local Governments

Issue: One of the barriers to the delivery of governmental services and programs is the exposure of local governments and their officials to civil damage claims. The state has acted to protect itself and its local governments by enacting exceptions and limitations to liability suits, and authorizing self-insurance and other mechanisms to deal with claims allowed by law.

Response: **The League of Minnesota Cities supports:**

a) **Creating an exception to municipal tort indemnification law, Minn. Stat. § 466.07, where an employee is defended and indemnified for claims under a contract of insurance carried by the employee.**
b) **Extending the protection of the state and municipal Tort Claims Act to quasi-governmental entities when performing public services such as firefighting or licensed third-party ambulance providers that contract with a municipality to provide ambulance services.**
c) **Existing constitutional safeguards for protecting public and private property interests without any statutory expansion of property rights.**
d) **Clarifying and maintaining the applicability of municipal immunity in various areas, including, but not limited to, vicarious official immunity and park and recreational immunity, including the extension to entities providing a public service that have not traditionally been included within the immunity (e.g., state trails over municipal utility easements).**

e) **Preserving changes to Minnesota's joint and several liability laws that require a municipality to be at least 50 percent at fault to be held responsible for 100 percent of a damage award.**
f) **Reasonable limits on the amount and circumstances in which statutory attorney fees may be awarded in order to encourage settlement by all parties and decrease the likelihood of litigation.**
g) **Preserving the essential structure of the local government tort liability caps in Minn. Stat. § 466.04.**

SD-22. Private Property Rights and Takings

Issue: In the wake of the U.S. Supreme Court's 2005 decision, *Kelo v. City of New London*, 545 U.S. 469, which upheld the ability of local governments to use eminent domain for economic development purposes, the Legislature enacted significant restrictions on cities' use of eminent domain for economic development and redevelopment, and imposed new compensation and procedural requirements that apply to all condemnation actions, including those for traditional public uses such as roads, parks, and schools. Legislation to control cities' abilities to perform regulatory acts—such as road rights-of-way condemnation, shooting range zoning, and amortization—has also received strong support from legislators. In addition, some legislators would like to authorize businesses to seek inverse condemnation when a governmental entity enters the business market and provides competing goods or services or limits the number of businesses that can operate privately or receive public contracts.

Such legislative initiatives threaten a wide array of planning, environmental, historic preservation, and land conservation measures and undermine the fundamental responsibility of cities to protect the public health, safety, and welfare of its citizens.

In 2006, the Legislature enacted Minn. Stat. § 117.031, a statute related to attorney fees in the eminent domain process. The structure of the statute has resulted in attorney fee awards in eminent domain actions that have no relationship to the outcome of the case, serve only to encourage litigation, and shift limited public funding away from infrastructure projects.

Response: **State law must continue to provide cities with the tools needed to balance the rights of private property owners with the interests of the public. The League of Minnesota Cities opposes legislation that diminishes the ability of cities to act in the best interest of the health, safety, and welfare of its citizens; that increases the cost of doing business for the public good; or that creates the possibility of additional lawsuits against cities.**

Specifically, the League opposes legislation that:

a) **Allows businesses to seek inverse condemnation when a city provides competing goods or services, or limits the number of private operators.**

b) **Creates an automatic cause of action for damages any time a local regulatory action impacts the use or reduces the value of private property.**

The League supports legislation that:

a) **Authorizes cities to use eminent domain for economic development and redevelopment projects that advance a greater public good that benefits the community.**

b) **Empowers local elected officials to determine whether a particular taking of property serves a public purpose.**
c) **Creates incentives to encourage landowners to voluntarily sell their property to the public for development or redevelopment.**
d) **More appropriately balances awards of attorney fees and costs of litigation with the outcome of the eminent domain proceeding.**

SD-23. Organized Solid Waste Collection

Issue: "Organized collection" refers to a situation where a local unit of government, for any of a variety of reasons, decides that there is a public interest served by limiting the number of solid waste and recycling collection services available in the area. The reasons for implementing organized collection can vary, but include:

a) Public safety concerns caused by the number and frequency of large trucks moving quickly through residential neighborhoods;
b) Reducing wear on public infrastructure from heavy truck traffic;
c) Improving the efficiency, cost and quality of garbage and recycling service provided to local residents;
d) Cooperating with other local governments to best meet solid waste management and recycling objectives;
e) Taking local steps to reduce energy impacts of public services; and
f) Meeting the requirements of county ordinances and solid waste management plans as required under Minn. Stat. § 115.94.

Organized collection is also encouraged in state solid waste policies as a means of improving the efficiency and coordination of solid waste management between local units of government. There are very specific and burdensome public procedures laid out in statute defining how such a decision must be publicly vetted and approved and over what time period that can occur.

Despite all of these important and valid reasons for using organized collection, legislation has been discussed in several recent sessions that would allow special takings claims or contractual damages to be claimed by the solid waste industry if local governments make decisions that limit the number of companies that can collect garbage in a community in a manner that prevents a company currently operating in the community from continuing to do so through the implementation of organized collection. The unspecified and ongoing liability this change would create would have the effect of eliminating organized collection as a waste management option. This change would also create a virtual monopoly situation for any company awarded a solid waste contract under organized collection. The local unit of government would have to "buy out" a contractor in the future to change providers, even if their services were no longer the lowest bid. It also creates an incentive for bidders under organized collection to submit high bids, as they would be eligible for damages if they fail to win without having to provide service. Furthermore, this is a precedent that, if applied to other government purchasing and service contracting decisions, would clearly run counter to the public purpose of government providing services at the lowest feasible cost to taxpayers.

Response: **The League of Minnesota Cities opposes efforts to apply inverse condemnation claims to city solid waste contracting decisions or to allow automatic contractual damage claims for**

solid waste haulers that lose competitive bids in organized collection communities.

Further, the League supports the current state policy that organized collection is a valuable tool as part of a comprehensive solid waste and recycling management program and recognizes the need to protect and preserve the authority of cities to adopt solid waste service contracts that protect public safety, the environment and public infrastructure.

SD-24. Private Well Drilling

Issue: The state has continued to place requirements on public water supply providers to add drinking water treatment and testing, to restrict the volume of water used, and to increase the cost of water use through fees and requirements on utility rate structures. As a result, many water users are choosing to obtain all or portions of their water from wells they place on their own property. This creates risks to public health and safety, can affect the surrounding environment, can affect city water supplies, and can leave city water utilities with massive losses of customer load and rate revenue.

Providing clean, safe, cost-efficient drinking water to citizens is an essential service provided by 726 active municipal water systems. The Minnesota Department of Health (MDH) agrees that cities have the statutory authority to determine whether private wells are an appropriate use within their boundaries and that cities must protect the public water supplies from numerous private wells in city boundaries. Private wells in a city increase the risk of contaminating public water supplies and encourage over use of water. Cities have the authority to regulate and even prohibit private wells by local ordinance.

Response: **The League of Minnesota Cities supports current law that authorizes cities to protect public health and safety through local controls regulating or prohibiting private wells being placed within municipal water utility service boundaries and would oppose any changes to law to remove that authority.**

SD-25. Sustainable Development

Issue: Minnesota cities spend significant time and resources planning for growth, development, and redevelopment that will best serve the future needs of their residents. Numerous factors are considered as part of that process, but an area of increasing interest involves concepts often categorized as "sustainable development." Minn. Stat. § 4A.07, subd. 1(b), defines this term, as it pertains to local government, to mean "development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs."

Cities play a key role in fostering sustainable development and other conservation practices due to their role in land use planning and zoning, stormwater and wastewater management, and local economic development. Local governments can take a lead on these issues by choosing to incorporate aspects of sustainable development into their local operations and facilities. They can also develop local policies and regulations that support and guide individual and private sustainability efforts. The ability of a city to affect these changes can, however, be restricted by policies and requirements imposed by other levels of government.

Sustainable development initiatives can cover a wide range of issues, but share the benefit of lessening the future environmental impacts of communities on the land, air, and water in their area. Lakes, streams, rivers, wetlands, wildlife habitat, shoreland areas, and other natural resources can be protected and enhanced in quality through local efforts. Energy efficiency and renewable energy production reduce the energy demands of a community and the environmental impacts of energy production. By more efficiently using public infrastructure and minimizing resource consumption, the costs to individuals, business, and government can be reduced. New and expanded business and job opportunities are also generated by the "green" products and services needed to implement sustainable development initiatives. The ideal result of well-planned sustainability, natural resources management, and conservation efforts is a city that is more efficient in the use of its resources and infrastructure, creates fewer environmental problems for future generations to address, and is a more desirable home for residents and businesses.

Response: **The League of Minnesota Cities supports federal, state, and regional efforts to promote sustainable development where the effectiveness of the proposed practice is supported by sound science, and as long as those efforts do not supersede the authority of local governments to determine their own policies regarding land use and related issues.**

Providing technical assistance and financial incentives, and streamlining regulations to encourage local governments and private property owners to engage in sustainable development practices, as well as assisting in education and information efforts for the building industry and the public, are the best means to generate successful results. These programs should focus on outcomes, allowing flexibility in how to best meet those outcomes in different locations and situations. The League opposes mandates that limit the authority of cities to determine what practices will best meet the needs of their communities.

The League supports sustainable development efforts that meet the above criteria, including programs proposed in the following areas:

a) **Shifting public resources, services, investments, purchasing power, and procurement toward more economically and environmentally sustainable outcomes where those solutions are cost effective and appropriate.**
b) **Using local land-use planning and zoning to protect and enhance limited natural resources, and reduce the impacts of growth and development on local infrastructure.**
c) **Promoting efficient and renewable energy sources.**
d) **Encouraging sustainable building design, construction, and operation strategies focused on integrated design, energy efficiency, water conservation, stormwater management, waste reduction, pollution prevention, indoor environmental quality, and the use of low-impact building materials and products.**
e) **Supporting sustainable economic development, such as brownfield clean-up, on-site stormwater management, and sustainable business practices and technologies.**
f) **Assisting and recognizing local governments that take actions to reduce greenhouse gas emissions and**

increase energy efficiency by providing and identifying technical assistance, financial assistance, and best practices.

SD-26. Construction Codes

Issue: The State Building Code (SBC) is the statewide standard for the construction, reconstruction, alteration, and repair of the buildings and other structures of the type governed by the code. A building code provides many benefits, including uniformity of construction standards in the building industry, consistency in code interpretation and enforcement, and life-safety guidance. Beginning in 2018, the state will adopt a new version of the SBC every six years after a rulemaking process that allows for significant public input. The League supports adopting and amending the SBC through the rulemaking process, and opposes legislative changes to the building codes absent unusual or extraordinary circumstances.

While all cities must enforce certain codes—such as the accessibility code and the bleacher safety code—enforcement of the SBC remains a local option for cities outside of the seven-county metropolitan area with fewer than 2,500 people that did not adopt the code before Jan. 1, 2008. Requiring enforcement of the SBC by smaller cities in Greater Minnesota is cost-prohibitive for many cities, and would result in an unfunded mandated.

While a single set of coordinated codes helps provide consistency in code administration and enforcement, implementation of sustainable building design, construction, and operation does not readily integrate with the existing state building and energy code system. As a result, many cities are interested in adopting more aggressive local standards for sustainable development and conservation.

Response: **A statewide-enforced building code may have benefits, but requiring it would result in an unfunded mandate.**

Enforcing the State Building Code should remain a local option for the municipalities that have not already adopted the Code, unless the state fully funds the costs of enforcement and inspection services necessary to enforce a statewide building code. If the Legislature requires all cities to enforce the State Building Code, local governments must have the option to hire or select a building official of their choice and set the appropriate level of service—even if the state fully funds code enforcement activities.

The state should collaborate with local governments, construction industry representatives, and other stakeholders to review the building and energy codes and consider modifications to encourage sustainable building design, construction, and operation.

Specifically:

a) **For purposes of federal conformity, the state should adopt the International Energy Conservation Code as part of the State Building Code.**
b) **The state should include an optional sustainable appendix to the State Building Code to allow cities to utilize appropriate parts of guidelines in their communities.**
c) **The Legislature should authorize cities to experiment with more aggressive local standards for sustainable development and**

conservation that will help inform the state code development process.

SD-27. Building Officials

Issue: There is a shortage of certified building officials in Minnesota. This shortage is particularly acute in Greater Minnesota where some cities have trouble finding certified building officials to perform inspections required by state law. Minnesota needs to hire a new generation of certified building officials, and must ensure that current officials have adequate training and opportunity to inspect a wide range of projects.

The Department of Labor and Industry (DLI) has authority over state-licensed facilities and public buildings. Pursuant to Minn. Stat. § 326B.106, subd. 2, it must delegate authority to inspect projects on these buildings to a municipality if DLI determines that the municipality has adequate qualified local building officials to perform plan review or inspection of the projects. In 2014 the Legislature passed legislation requested by the League of Minnesota Cities and agreed to by DLI to provide more transparency and clarity to the delegation process. DLI, after consulting local governments and the League, implemented a new delegation procedure as required by statute. Although the new delegation process is a significant improvement, it can still be difficult for local building officials to achieve the experience necessary to be delegated full inspection authority.

Response: **Minnesota's housing and construction industries depend on the work of local building officials, and cities that enforce the State Building Code endeavor to provide quality code administration and enforcement. The State must increase its efforts to train new building officials, and must provide sufficient education to help local officials efficiently administer and enforce construction regulations to protect the health and safety of citizens. These education efforts should include training to assist local building officials gain the requisite experience to qualify for delegation of state-licensed facilities and public buildings.**

The League urges the state to make surplus revenue from the building permit surcharge available to local governments to help defray the cost of complying with code official training and education requirements.

SD-28. Disability Access Requirements

Issue: Title II of the Americans with Disabilities Act (ADA) of 1990 requires that state and local governments provide people with disabilities equal opportunity to benefit from all of their programs, services, and activities. Public entities are not required to take actions that would result in significant financial and administrative burdens, but they must modify policies, practices, and procedures to avoid discrimination unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

State and local governments are also required to follow specific standards when constructing new facilities and altering existing public buildings, and they must relocate programs or otherwise provide access in inaccessible older buildings. Under the ADA, public entities are not necessarily required to make each existing facility accessible. However, their programs—when viewed in their entirety—must be readily accessible to people with disabilities. A public entity may achieve program

accessibility through various methods. For example, a city may alter existing facilities, acquire or construct new facilities, relocate a service or program to an accessible facility, or provide services at other accessible sites.

One district court judge has taken an expansive view of disability access requirements for public recreation facilities. The case involved a parent who sued a city due to difficulty viewing soccer and baseball games on certain city fields. The court, in interpreting the Minnesota Human Rights Act (MHRA), held that any public facility is a public service. Since the MHRA requires that every public service be accessible to disabled persons, the court concluded that each and every playing field and other public facility must be fully accessible. The court rejected the ADA's limitations on modifications for physical access to older facilities, as well as the ADA's "when viewed in its entirety" language for program access. The result is a more restrictive state standard for physical access to public facilities than required by the ADA and the State Building Code.

Response: **The League of Minnesota Cities supports changes to the MHRA that will make state accessibility standards compatible with the federal ADA for public services and facilities. The Legislature should clarify that a facility that is in compliance with Accessibility Code provisions of the State Building Code meets the physical access requirements of the MHRA. State law should also specify that accessibility requirements apply to public programs and services as a whole, rather than to each individual aspect of a public program or service.**

SD-29. Assaults on Code Inspectors and Officials

Issue: Many city employees and contractors are required to enforce city codes and ordinances and state statutes and rules as part of their job duties. Code enforcement can involve denying a building permit, ordering a landlord to make repairs to rental properties, or fining property owners for failing to abate a nuisance. Because of the nature of their job, code inspectors and officials can be subjected to verbal assaults, threats, and physical violence.

Minnesota law recognizes the need to protect certain employees whose jobs make it more likely that they will be the target of assaults by escalating assault charges from fifth to fourth degree for the assaults of peace officers, firefighters, school officials, and "public employees with mandated duties". Minn. Stat. § 609.2231, subd. 6, specifically defines "public employees with mandated duties" as agricultural inspectors, occupational safety and health inspectors, child protection workers, public health nurses, animal control officers, and probation or parole officers. An assault on one of these employees who is engaged in the performance of a duty mandated by law, court order, or ordinance, is a gross misdemeanor if the person knows the employee is engaged in the performance of official duties and inflicts demonstrable bodily harm.

Under current law, an assault on a code inspector or official not enumerated in Minn. Stat. § 609.2231, subd. 6, while performing official business can only be charged as fifth degree assault, a misdemeanor, unless it results in substantial bodily harm. All code inspectors and officials should be afforded the same protections under Minnesota Statutes, and the legislature should amend the statute to

expand the employees covered by the statute.

Response: **The legislature should expand Minn. Stat. § 609.2231, subd. 6, to include code inspectors and officials, and should be defined broadly to include public employees and contractors whose jobs require them to enforce all administrative codes, rules, ordinances, and state laws.**

SD-30. Restrictions on Possession of Firearms

Issue: The Minnesota Citizens Personal Protection Act, also known as "conceal-and-carry," prohibits guns on most school properties but forbids other local units of government from prohibiting loaded firearms on their properties. The inconsistencies in the law's treatment of different kinds of properties have caused confusion about how the law applies to multi-use facilities, such as municipal ice arenas used for school-sponsored programs.

Further, the law gives private property owners the right to prohibit guns in their establishments, but prohibits landowners from restricting firearm possession by tenants and their guests without distinguishing between residential and commercial properties. This creates confusion for shopping malls and other retail properties with large common areas that are not occupied by the tenants but which the tenants and their customers must cross to access the tenant's space.

Finally, the Citizens Personal Protection Act does not explicitly state the type of firearm a permit holder may carry, and this has led to ambiguity regarding whether the law is limited to the right to carry a pistol-length firearm in public or if it allows for any firearm, including a military-style assault rifle.

Response: **The League of Minnesota Cities requests an amendment to the Citizens Personal Protection Act that would allow cities to prohibit firearms in city-owned buildings, facilities, and parks. The League supports clarifying the Act to state that a permit holder, under the terms of a permit, is allowed to carry a pistol-length firearm, but not a semiautomatic military-style assault weapon. The League is not seeking a repeal of the Citizens Personal Protection Act, nor authority to prohibit legal weapons in parking lots or on city streets and sidewalks. The League also supports efforts by commercial property owners to clarify that the prohibition on restricting possession by tenants and their guests applies only to residential rental property.**

SD-31. Public Safety Communications

Issue: The state role in financing public safety communications has important cost implications for cities. The state needs to accept financial responsibility for use by cities of the state public safety radio communications backbone. Cities have struggled to pay high expenses to participate in the 800 MHz statewide public safety system.

In previous state budgets, the Legislature turned to revenue sources upon which cities depend to cover costs to purchase and operate new communications technology and hardware for computer-aided dispatch, 911 public safety answering points (PSAPs), and interoperable radio communications equipment and subsystems in order to finance the build-out of the state backbone for the new system. As a result, fees were directed to fund revenue bond debt service used to complete the statewide build-out of the Allied Radio Matrix for Emergency Response (ARMER) and the cost of

operations of the state public safety radio communications backbone.

At the federal level, the Federal Communications Commission (FCC) has ordered reservation of 700 MHz wireless spectrum for a national interoperable broadband network to meet public safety communications needs. FirstNet was established in 2012 as an independent authority within the National Telecommunications and Information Administration (NTIA) and is responsible for constructing a nationwide high-speed public safety wireless broadband network.

Response: **The League of Minnesota Cities supports continued and increased state financing of substantial local costs to participate in ARMER, including the acquisition and modernization of subscriber equipment, such as portable and mobile radios required for ARMER users. The League also opposes efforts to divert dedicated ARMER funds to the state's general fund. The Legislature should fund regional cooperation and partnerships for effective delivery of 911 service, training and use of ARMER.**

The League also urges the FCC to continue to support availability of wireless spectrum necessary to expand channel capacity that allows local public safety agencies to meet future needs of cities and other local units of government.

SD-32. CriMNet

Issue: Public safety is compromised by the lack of centralized, complete, and accurate criminal history data about individuals, incidents, and cases. Without an integrated criminal justice information system, Minnesota cannot always hold serious criminals accountable for their crimes. CriMNet, Minnesota's effort to integrate the 1,100 criminal justice information systems operated by agencies at all levels, will improve access to relevant criminal history data for public safety and criminal justice authorities.

City officials are well aware of the complex issues raised by the utilization of electronic record keeping, data sharing, and access to records that identify data subjects. The League of Minnesota Cities recognizes that one of the challenges in making CriMNet operational is meeting the requirements of the Minnesota Government Data Practices Act (MGDPA).

More than 500 cities operate police departments. These departments vary dramatically in fiscal capacity, staffing resources, and technical expertise. Further, each municipal law enforcement agency has unique operating procedures, strengths, and needs based on the community it serves. The League knows CriMNet will have a significant impact on municipal police business practices, and could mean increased staffing needs, training, and equipment purchases. The League also recognizes that every agency must participate fully in CriMNet to make the system effective.

Response: **The League of Minnesota Cities supports efforts by the state to integrate criminal justice information systems. The League also supports cooperation between legislators, law enforcement and corrections agents, court officials, prosecutors, community groups, and businesses that build public support for CriMNet.**

If CriMNet is to be implemented statewide, the Legislature must consider the different capacities of municipalities to participate. The League requests that

the Legislature fund CriMNet planning and implementation at the local level.

To ensure compliance with the MGDPA, comprehensive guidelines and operational practices should be implemented to safeguard access to and use of CriMNet data. However, data practices policies should not create new, unfunded mandates for local units of government or compromise CriMNet's usefulness to the criminal justice system by creating unnecessary barriers. CriMNet stakeholders and participating users at the local level should be involved in crafting any legislation that would govern data practices requirements for CriMNet.

SD-33. Pawn Shop Regulation and Use of the Automated Property System (APS)

Issue: Minn. Stat. ch. 325J enables licensure for pawnbrokers and provides statewide minimum regulations for the pawn industry.

Specifically, the law:

a) Requires pawnbrokers to record all transactions, including details of the item pawned or sold, information about the customer and the cost of the transaction.
b) Requires pawnbrokers to maintain records of all transactions for three years, and to make records available upon request to law enforcement agencies.
c) Allows pawnbrokers to charge a maximum monthly interest rate of 3 percent of the principal amount loaned in a transaction, plus a reasonable fee for storage and services.

The Automated Property System (APS) is a computerized system for tracking and monitoring pawn transactions. The purpose of the APS is to provide a tool to verify compliance with Minn. Stat. ch. 325J, to help identify and minimize illegal activity, to recover stolen property, and to provide a legitimate environment for consumers. Currently, almost 260 law enforcement agencies and over 190 stores in Minnesota and Wisconsin participate in the APS system as either a "query only" or "contributing" member.

All access to and use of information in the APS system is governed by the Minnesota Data Practices Act. Only authorized users have access to the data. There is no public access to the data. Further, data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer are private data on individuals and only used for law enforcement purposes. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer is public.

Original pawn and secondhand transactions reported to the APS carry a $1 fee, regardless of the number of items involved. All subsequent updates or corrections to transactions are processed without charge. Contributing jurisdictions may also add regulatory costs to the transaction fee. The total transaction fee is then typically assessed by the dealer to the customer.

A bill that would weaken Minn. Stat. ch. 325J and restrict the use of the APS has been introduced in the Minnesota Legislature. Specifically, the legislation would forbid law enforcement agents from acquiring customer information from pawn and secondhand shops until they have probable cause to do so, and would eliminate the authority of local units of government to more strictly regulate pawn and secondhand dealers.

Response: **The League of Minnesota Cities supports the authority of cities to regulate and license pawnbrokers, and opposes any legislation that would remove the authority of local governments to enact more restrictive regulations than currently exist in Minn. Stat. ch. 325J.**

The League supports the authority of cities to set licensing and transaction fees that enable them to recover their full regulatory and enforcement expenses.

The League supports cooperation between law enforcement agencies and the pawn industry that enhances the ability to identify illegal activity and recover stolen property. Access to transaction information by law enforcement agencies is vital to accomplishing this goal. Further, the sharing of information through the use of the APS is a proactive way to prevent property and other crimes.

SD-34. City Costs for Enforcing State and Local Laws

Issue: Cities experience substantial costs enforcing state and local laws, particularly those related to traffic, controlled substances, and incarceration of prisoners. The current method in our criminal justice system of recovering costs for law enforcement and prosecution through fines is insufficient to meet the costs incurred by local governments. Further, when a violator requests relief from paying the full amount of the fine and surcharge, the courts have been more inclined to waive the fine than to reduce the surcharge. When this occurs, the local units of government recover no costs even though the city has incurred expenses.

Response: **The Legislature should review this issue and adopt measures that provide for complete reimbursement of the costs incurred by local governments in enforcing state and local laws. Solutions that should be considered include:**

a) **Increasing fine amounts.**
b) **Removing or modifying county and state surcharges that conflict with cost recovery principles.**
c) **Requiring the courts to consider ordering restitution from the defendant to reimburse the costs of enforcement and prosecution as part of any sentence.**
d) **Requiring that if a court reduces the amount paid by a violator, any reduction should be made from the surcharge and not the fine.**

SD-35. Compensation and Reimbursement for Public Safety Services

Issue: Municipal public safety personnel often respond to emergencies involving non-residents. For example, municipal fire, police, and/or ambulance services may be dispatched to the scene of a traffic accident on an interstate highway involving victims from other cities or states. Although cities can bill for some public safety services they provide to non-residents, they have limited authority to collect on unpaid bills.

Cities have also found that auto insurance policies vary when it comes to coverage for emergency responses. Insurance companies of those responsible for accidents sometimes deny payment for fire and ambulance service.

Additionally, municipal public safety personnel commonly respond to emergencies that require the provision of medical services. The medical services provided by the city-employed first responders are part of a continuum of health care that is covered by insurance companies

when provided by paramedics and other medical care providers; however, insurance policies vary when it comes to coverage for municipally provided medical services. Insurance companies of those treated by municipal public safety personnel frequently deny payment for emergency medical services when they are billed by a municipality.

Thus, when a municipal public safety agency provides first response medical assistance, they commonly do so at the expense of local property taxpayers. While emergency responses are legitimate functions of municipal public safety departments, the costs of providing services to non-residents should not be borne by the community's taxpayers.

Response: **Cities should be compensated for emergency responses they provide to non-residents. They should have the authority to bill for the full cost of fire and ambulance services they provide, and to collect on unpaid bills.**

Further, while emergency medical responses are legitimate functions of municipal public safety departments, the costs of providing emergency medical care to individuals should be covered by insurance and not be borne exclusively by the community's taxpayers. Cities should have the authority to bill for the full cost of first responder medical services they provide and to collect on unpaid bills. Insurance companies should be required to reimburse local governments for the full cost of providing these emergency medical services. Finally, auto and homeowners insurance policies should be required to insure for the cost of emergency responses.

SD-36. Administrative Traffic Citations

Issue: Cities have implemented administrative enforcement programs for violations of local regulatory ordinances, such as building codes, zoning codes, health codes, and public nuisance ordinances. This use of administrative proceedings has kept enforcement at the local level and reduced pressure on over-burdened district court systems.

The Legislature has repeatedly increased the fine surcharge on district court cases to generate revenues for the state's general fund. The surcharge—the amount paid over and above the fine—is now $75 per citation. The growth in the surcharge has dramatically increased the cost of citations and has caused some to question whether the total of the fine and surcharge is disproportionate for minor matters. To lower the amount imposed on their residents, a number of cities have expanded their administrative programs to include some offenses traditionally heard in district court, such as minor traffic offenses.

The increased state surcharges have not been used to assist local units of government with the growing costs of enforcement and prosecution. No matter which entity—city, county or state—issues a statutory citation, the violator pays between $115 and $127 for a minor speeding violation. Of this amount, the city receives between $13 and $20, and the county receives just slightly more.

Further, when a violator requests relief from paying the full amount of the fine and surcharge, the courts have been more inclined to waive the fine than to reduce the surcharge. When this occurs, the local units of government recover no costs even though the city has incurred expenses.

In 2009, the Legislature amended the statutes to allow administrative fines to be issued for certain minor traffic offenses. Cities report that the short list of offenses noted in that law change does not adequately address the needs of local law enforcement. Additional authority is necessary to allow law enforcement officers to implement an effective program to reduce violations.

Response: **The League of Minnesota Cities continues to support the use of city administrative fines for local regulatory ordinances, such as building codes, zoning codes, health codes, public nuisance ordinances and regulatory matters that are not duplicative of misdemeanor or higher level state traffic and criminal offenses. Cities should have the authority to issue administrative citations for low-level moving and equipment violations that: 1) would otherwise result in warnings, and 2) occur on roadways where the speed limit is 45 miles per hour or less.**

If state leaders choose not to expand the list of administrative traffic offenses, they should then change the distribution of statutory violation fine revenues so that cities are adequately compensated for enforcement and prosecution costs.

SD-37. Driver Diversion Programs

Issue: Traffic offense educational diversion programs provide an alternative to first-time petty misdemeanor traffic citations. The programs require an accused violator to enroll in an educational class and successfully complete the class. The courses focus on safe driving and have been shown to change behavior and reduce recidivism, particularly among young drivers.

In 2014, a judge in Wabasha County ruled that local units of government do not have the authority to implement minor traffic offense educations diversion programs that are not explicitly authorized by law. Given this ruling, many longstanding, successful diversion programs for first-time offenders were suspended.

In 2008, the legislature approved a pilot diversion program. It authorizes designated cities and counties to implement diversion programs that meet specific criteria. The commissioner of the Department of Public Safety (DPS) has the authority to approve or deny participation in the pilot program by individual cities and counties, and each person participating in the program must first be granted approval by the DPS. Due to limited DPS staffing for this function, approval for some participants has been delayed. The pilot program is scheduled to expire December 31, 2019.

The session law governing the pilot requires that all sums owed must be paid within 18 months. Most people entering the driver diversion program have outstanding fines and fees in the amount of between $1,000 and $4,000. There are some individuals, however, who owe as much as $8,000 to $10,000 in fines and fees. The short timeline for making all payments causes a number of otherwise cooperative participants to drop out of the program.

Response: **The League of Minnesota Cities also supports making the driver diversion pilot program for individuals with suspended or revoked licenses permanent and available to all jurisdictions, and a broadening of the eligibility criteria for participation in the program so it is available to more people. The law should allow jurisdictions to consider the financial circumstances of individuals and provide authority to extend the timeline for collecting outstanding fines and fees beyond the**

current 18 months. Lastly, the DPS must provide adequate staffing for processing driver diversion program applications to avoid delays in approval for participation.

SD-38. Distracted Driving

Issue: Distracted driving is when a driver engages in any activity that might take attention away from the primary task of driving. According to the Minnesota Department of Public Safety, one in four motor vehicle crashes is related to distracted driving. Distracted driving was a contributing factor in 175 fatal crashes from 2011 to 2013 in Minnesota and resulted in 191 deaths. More than half of those crashes occurred in rural areas. Those fatalities cost the state more than $269 million. A University of Utah study finds that the relative risk of being in a traffic accident while using a cell phone is similar to the hazard associated with driving with a blood alcohol level at the legal limit.

Under existing law, it is illegal for a driver to read, compose, or send text messages and emails, or access the Internet using a wireless device, while the vehicle is in motion or a part of traffic (including while stopped in traffic or at a semaphore). Cell phone use is totally banned for school bus drivers. Cell phone use is also totally banned for teen drivers during their permit and provisional license stages.

Response: **The League of Minnesota Cities opposes any changes to Minnesota Statutes that would weaken distracted driving laws.**

The League supports state funding for distracted driving enforcement and education and also supports strengthening distracted driving laws.

SD-39. Juveniles in Municipal Jails

Issue: Municipal jails have long served as holding facilities for suspects who are being questioned and/or booked, and for those awaiting transfer to a county jail or juvenile detention facility. In 2012, the Minnesota Department of Corrections (DOC) issued a reinterpretation of an existing law to say that, "[W]here counties have secure juvenile correctional facilities…juveniles are not allowed to be held in jail and/or municipal lock-ups for any length of time."

This interpretation is in conflict with a provision in Minn. Stat. § 260B.181, subd. 4, which provides that juveniles can be held in a licensed juvenile facility for up to six hours. Many municipal jails, including those in counties where juvenile detention facilities exist, have been operating under the six-hour holding law.

Managers of municipal jails indicate the reinterpretation of the law is contrary to common practice and presents significant challenges for municipal law enforcement personnel.

Response: **The League of Minnesota Cities supports a statutory clarification that would allow juveniles to be held for questioning and booking in licensed jail facilities for up to six hours, regardless of whether the county has a juvenile detention facility.**

SD-40. Justice System Funding

Issue: Over the past several years, Minnesota's justice system has operated under consecutive budget shortfalls. Public service windows are closed part of each week in many courthouses. Delays in case filings, hearings and dispositions are building throughout the state as staff and judges struggle to keep up with caseloads.

The budget shortfalls limit the ability of the courts to process cases pertaining to shoplifting, trespassing, worthless checks, traffic and ordinance violations, juvenile truancy, runaways and underage drinking, consumer credit disputes, property-related and small civil claims, and many other cases. Timely processing of these cases is critical to keeping communities safe and to preserving the quality of life residents expect.

The State Court Administrator has advocated for statutory changes that have resulted in efficiencies and cost savings while preserving core services. These changes involve consolidating services where practicable and using technology to reduce costs. They include centralized payable processing, use of e-citations and restructuring of state mandated programs.

Response: **The League of Minnesota Cities supports a statement by former Chief Justice Eric J. Magnuson that calls for "an adequately funded, functioning justice system that resolves disputes promptly in order to ensure the rule of law, protect public safety and individual rights and promote a civil society." The League supports the use of technology to reduce costs and preserve services. The League opposes any changes that would decriminalize local ordinances, petty misdemeanors or misdemeanor offenses, or that would make prosecution of these crimes more difficult.**

SD-41. 21st Century Policing

Issue: Published in May 2015, the *President's Task Force on 21st Century Policing Report* makes multiple recommendations aimed at helping law enforcement agencies and communities strengthen trust and collaboration, while reducing crime by implementing the next phase of community-focused policing. The report contains recommendations related to six key areas of law enforcement:

1. Building Trust and Legitimacy;
2. Policy and Oversight;
3. Technology and Social Media;
4. Community Policing and Crime Reduction;
5. Training and Education; and
6. Officer Safety and Wellness.

Many Minnesota communities have embraced 21st Century Policing concepts, and municipal police departments throughout the state have adopted policies that align with 21st Century Policing principles.

In Minnesota, police chiefs have indicated strong interest in securing additional training in 21st Century Policing practices for officers. Demand for training has increased in recent years, and in 2017 the Legislature responded by increasing continuing education requirements for officers, expanding the scope of this training to include more community policing, and by providing $6 million per year over the next 4 years for training reimbursement provided by the Peace Officer Standards and Training (POST) Board. This funding is not permanent and sunsets after the four-year period.

The POST Board is funded through a special revenue account from a surcharge on criminal and traffic convictions. However, a significant amount of the special revenues collected are diverted to the state's general fund and are not made available for training reimbursement, and the amount of the surcharge paid to the state has been

declining. There is also growing concern about the impact of the surcharge on residents, particularly those of low income and persons of color, and concern about funding policy training based on ticket revenue.

Response: **The League of Minnesota Cities recognizes the need for communities and law enforcement agencies to strengthen trust and collaboration, while continuing to reduce crime. The League supports the recommendations of the *President's Task Force on 21st Century Policing Report*. To that end, the League supports:**

a) **POST Board model policies that align with the recommendations of the President's Task Force on 21st Century Policing Report;**
b) **POST Board approved training opportunities for new recruits and in-service peace officers that include but are not limited to procedural justice, bias/implicit bias and cultural awareness, de-escalation, and crisis intervention training;**
c) **Increased state and federal funding for peace officer training that includes reimbursement for tuition, travel, time and backfilling the shifts of officers who are out for training;**
d) **Permanent funding for police training that is not based on criminal and traffic ticket revenue;**
e) **State and federal funding for peace officer safety and wellness initiatives; and**
f) **Authority and grants for municipal police departments to deploy technologies such as dash cameras and police body worn cameras that enhance both criminal justice and officer accountability.**

SD-42. Post-Incarceration Living Facilities

Issue: Sufficient funding and oversight is needed to ensure that residents living in post-incarceration living facilities have appropriate care and supervision, and that neighborhoods are not disproportionately impacted by high concentrations of these types of facilities. Under current law, operators of certain post-incarceration living facilities are not required to notify cities when they intend to purchase single family housing for these purposes. Cities do not have authority to regulate the locations of post-incarceration living facilities. Cities have reasonable concerns about the safety of facility residents and neighborhoods, particularly in cases of public safety. Cities also have an interest in preserving a balance in residential neighborhoods between this type of facilities and other uses. It is in the best interest of providers to inform and work with cities before opening a facility in order to educate providers of community standards and expectations.

Response: **Cities should have statutory authority to require agencies, as well as licensed and registered providers, that operate post-incarceration living facilities to notify the city before properties are operated. Cities should be provided with the necessary contact information once licensed or registered. Providers applying to operate post-incarceration living facilities should be required to contact the city to be informed of applicable local regulations. The Legislature should also require establishment of non-concentration standards for post-incarceration living facilities to prevent clustering. Finally, licensing or registering authorities must be responsible for removing any residents incapable of living in such an environment,**

particularly if they become a danger to themselves or others.

SD-43. Homeland Security Costs and Liability

Issue: The federal government's response to terrorism has resulted in new responsibilities for local governments in a number of areas. For example, shortly after the terrorist attacks on Sept. 11, 2001, the federal government tapped local law enforcement personnel to provide security and perform screening at our nation's airports. These new responsibilities increase cities' liability exposure and result in higher local costs for public safety services. In addition, local governments are expected to continue emergency planning and capacity building efforts, provide additional training and equipment for first responders, and improve emergency response coordination and communication.

As partners in protecting our country from terrorism, the federal government must: 1) provide greater direct financial support for our first responders; 2) maintain funding for general pre- and post-disaster emergency management programs; 3) ensure a coordinated and effective national emergency response system; and 4) address issues of cyber security that threaten public safety, services, and infrastructure.

Response: **The League of Minnesota Cities recommends that when the federal government requires or contracts for cities' assistance in meeting federal homeland security responsibilities, the federal government should fully cover the costs, including the risk of liability arising from these activities.**

The League supports greater federal funding to prepare, train, and equip our first responders. The League also supports changes in the federal funding process to ensure Department of Homeland Security funds move quickly to the local level. Furthermore, the League supports the allocation of state resources to provide training and technical assistance to local governments related to the prevention and control of cyber security risks to critical infrastructure.

SD-44. Cybersecurity

Issue: Dating back to at least 2012, U.S. Defense Secretaries have warned that the United States are increasingly vulnerable to foreign computer hackers who could dismantle the nation's power grid, transportation system, financial networks and government. On a state level, the original Minnesota broadband task force issued unanimous joint recommendations regarding cybersecurity in their 2009 report. The more recent iteration of the Broadband Task Force also issued a 2016 recommendation to establish a legislative cybersecurity commission to share information, monitor workforce issues, and support and strengthen infrastructure. These recommendations to address cybersecurity issues in the state have not been implemented, which creates an absence of a secure and safe forum for state and local officials and policymakers to share information and assess the necessary tools and capabilities needed to protect their systems. The problem is serious. The Minnesota Judicial Branch, state agencies, cities, and school districts were all affected by cyberattacks in 2017.

Response: **The League of Minnesota Cities supports state action to identify and strengthen state and local capabilities. The League supports the inclusion of funding to evaluate state government cyber vulnerabilities, single points of failure, and fixes, and, based on**

those findings, create an ability for municipal governments to apply for grant funding or assistance to help conduct the same evaluation.

SD-45. Immigration Reform

Issue: The United States and the State of Minnesota have long traditions of welcoming immigrants. Immigrants strengthen Minnesota by contributing to the state's economy, enhancing cultural resources, and participating in efforts to build strong communities.

According to the National League of Cities, roughly 35 percent of undocumented immigrants have lived in the United States for 10 years or more. Approximately 1.6 million undocumented immigrants are children, and another 3.1 million children in the United States have at least one undocumented parent. These families are forced to live "underground" and are unable to get drivers' licenses or car insurance in most states. In addition, they are unlikely to obtain health insurance and are afraid to report crimes to local law enforcement.

Since immigrants are barred from most federal public assistance, the burden of providing social services, education, and health care falls to state and local governments that are increasingly feeling the financial impact of both legal and illegal immigrants living in their communities.

Response: **The League of Minnesota Cities, together with the National League of Cities, urges Congress to move quickly to enact and enforce effective immigration laws.**

Federal and state governments must not transfer responsibility for enforcing U.S. immigration laws to local personnel, including police officers, firefighters, educators, health professionals, and social service employees. Finally, federal and state governments must not prohibit local units of government from implementing policies aimed at fostering positive relationships between local government officials, including law enforcement personnel, and immigrant communities.

SD-46. Legalization of Fireworks

Issue: In 2002, the state enacted a law allowing the sale and use of non-aerial, non-explosive consumer fireworks, including sparklers, party poppers, snakes, and other novelty items—relaxing the ban on consumer fireworks in place in Minnesota since 1941. In 2008, the Legislature further relaxed the ban by increasing the amount of explosive material allowed in legal fireworks.

Local fire service professionals have reported that consumers and law enforcement personnel have had difficulty distinguishing between legal and illegal fireworks, and that the 2002 law resulted in greater use in Minnesota of illegal fireworks purchased in other states.

According to data provided by the Minnesota State Fire Marshal Division, injury trends and dollar losses related to fireworks incidents surged after the consumer fireworks ban was lifted. Hospital reports reveal that the annual number of injuries caused by fireworks rose dramatically in 2002 and remains elevated. Likewise, Minnesota Fire Incident Reporting System records show that the annual dollar loss resulting from fireworks incidents increased significantly in 2002 and has since grown.

In 2003, the state enacted a number of provisions limiting local authority pertaining to fireworks sales. The 2003 law caps the

allowable municipal permit fee at $100 per vendor selling fireworks with other products, and $350 per vendor selling fireworks exclusively. The law restricts cities from requiring fireworks sellers to purchase additional liability insurance. Finally, the 2003 law states that cities cannot prohibit or restrict the display of consumer fireworks if the display and structure complies with National Fire Protection Association (NFPA) Standard 1124. The NFPA is a private international association of individuals and trade and professional organizations. (NFPA Standard 1124 is not a public document and is available only for a fee.)

Fireworks products can cause serious injuries and fire loss. The legal sale of consumer fireworks undermines fire prevention efforts. The sale and use of consumer fireworks increases local public safety enforcement, emergency response, and fire-suppression costs.

Response: **The League of Minnesota Cities opposes legislation that would further relax the ban on the sale and use of consumer fireworks. The League supports a repeal of the 2002 law that relaxes the ban on the sale and use of consumer fireworks.**

Fees are needed to cover the costs associated with compliance checks, education, and inspections relating to the sale of a regulated product. The current fee caps do not allow cities to recover these costs. The League supports allowing cities to establish and impose reasonable fees on retailers that sell fireworks. The League opposes restrictions on requiring fireworks retailers to purchase additional liability insurance. Finally, the League seeks repeal of the NFPA reference.

SD-47. Traffic Enforcement Cameras

Issue: Drivers who disobey traffic laws can cause serious traffic accidents and contribute to gridlock. In spite of the severity of this problem, cities cannot always afford the levels of peace officer enforcement that residents demand. The technology exists to enforce traffic laws with photographic evidence. For example, there is less running of red lights when motions imaging recording systems (MIRS) are installed at traffic signals.

Response: **Local law enforcement agencies should have the express authority to use photo enforcement technology to enforce traffic laws. Local law enforcement officers should have the express authority to issue citations for traffic violations by mail where the violation is detected with photographic evidence.**

SD-48. Operation of Motorized Foot Scooters

Issue: Current state statute (Minn. Stat. § 169.225) regulates the operation of motorized foot scooters and treats motorized foot scooters similar to bicycles in terms of rights and duties. By statutory definition (Minn. Stat. § 169.011, subd. 46), motorized foot scooters must be powered by an engine or motor that is limited to a maximum speed of 15 miles per hour. The law provides that an operator must be 12 years of age or older. Although the law contains safety provisions, including a requirement that operators under the age of 18 must wear helmets, it does not require training or permits for operators of any age.

Motorized foot scooters that are part of organized sharing or rental businesses rely on the ability to park in the public right-of-

way, especially on public sidewalks, to facilitate customer access and vending. Cities have express authority to regulate parking on city streets and sidewalks. Local government units should also have clear authority to regulate or proscribe unauthorized use of city right-of-way for motorized foot scooter parking, to require a permit or license for each scooter or sharing company, and to include terms and conditions dictated by the granting authority.

In order to protect public health, safety and welfare, it is important that cities have clear authority to regulate motorized foot scooter parking and sharing options.

Response: **State law should support the ability of local governments to regulate or proscribe unauthorized use of city right-of-way for motorized foot scooter parking, to require a permit or license authorizing motorized foot scooter parking or sharing in the public right-of-way, and to impose terms, conditions, and local rules on businesses seeking such a permit or license.**

SD-49. Electric Personal Assistive Mobility Devices and Electric Vehicles Operation While Impaired

Issue: Electric personal assistive mobility devices (commonly referred to as Segways) and electric vehicles are becoming increasingly popular modes of transportation, particularly for local trips. The definitions of these types of vehicles are provided under Minn. Stat. § 169.011 as follows:

• "Electric personal assistive mobility device" means a self-balancing device with two nontandem wheels, designed to transport not more than one person, and operated by an electric propulsion system that limits the maximum speed of the device to 15 miles per hour.

• "Electric vehicle" means a motor vehicle that is able to be powered by an electric motor drawing current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and meets or exceeds applicable regulations in Code of Federal Regulations, title 49, part 571, and successor requirements. Electric vehicles include neighborhood electric vehicles, medium-speed electric vehicles and plug-in hybrid electric vehicles.

Although the state driving while impaired (DWI) law (Minn. Stat. § 169A.20) prohibits a person with a blood alcohol level (BAC) above .08 from operating a motor vehicle, boat or off-road vehicle, the Minnesota Court of Appeals recently held that such devices are not motor vehicles for purposes of Minnesota's DWI laws. *State v. Brown*, 801 N.W.2d 186 (Minn. Ct. App. 2011). The court's decision makes it difficult for local officials to prosecute a person who is threatening public safety by operating an electric personal assistive mobility device or an electric vehicle while impaired.

Response: **The League of Minnesota Cities supports an expansion of the current DWI law so that it applies to a person operating an electric personal assistive mobility device or an electric vehicle.**

SD-50. Drug Courts

Issue: The League of Minnesota Cities recognizes the impact of substance abuse on individuals, communities and taxpayers. According to the National Council on Alcoholism and Drug Dependence, the relationship between alcohol and drugs and crimes--including domestic abuse and

violence, underage drinking, robbery, assault and sexual assault--is clearly documented. The National Center on Addiction and Substance Abuse reports 65 percent of the nation's inmates meet certain medical criteria for substance abuse and addiction, but only 11 percent received treatment for their addictions.

Drug courts are an effective problem-solving approach for dealing with alcohol and other drug addicted offenders in the judicial system. Drug courts closely monitor the defendant's progress toward sobriety and recovery through ongoing treatment, frequent drug testing, regular mandatory check-in court appearances, and the use of a range of immediate sanctions and incentives to foster behavior change.

In drug court, judges collaborate with other traditional court participants (prosecutors, defense counsel, treatment providers, probation officers, law enforcement, educational and vocational experts, community leaders and others), whose roles have been substantially modified, but not relinquished, in the interest of helping defendants deal with addiction.

Response: **The League of Minnesota Cities supports the efforts of drug courts to address substance abuse and reduce crime. The League supports funding for additional drug courts.**

SD-51. Methamphetamine

Issue: The production and abuse of methamphetamine (meth) continues to be a problem for communities across Minnesota. Cities are facing serious issues pertaining to meth, including costly cleanup of drug labs, and the social problems and public safety issues resulting from meth abuse. To meet the challenges presented by the growing meth problem, cities are working with retailers to monitor the sale of precursor ingredients, and are coordinating with other units of government on the impact on communities.

Response: **The Legislature and state agencies must:**

a) **Provide sufficient funding to assist local units of government with cleanup of drug labs.**
b) **Allow local governments to be more restrictive in the development of ordinances at the city and county level to appropriately address the needs of their communities.**
c) **Support public education on methamphetamine, including information to local government officials, retailers, schools, and health care providers.**
d) **Provide training, equipment, standards, and support sufficient to allow local law enforcement and other responders to safely perform their duties.**

SD-52. Drug Paraphernalia

Issue: Cities throughout the state struggle with local businesses selling items primarily designed to enable illegal drug use. Current state law only prohibits use, possession, delivery, and advertisements of drug paraphernalia. The law inadequately defines the term "drug paraphernalia," and leaves cities to pass more effective ordinances "prohibiting or otherwise regulating the manufacture, delivery, possession, or advertisement of drug paraphernalia."

Many cities have adopted their own ordinances to regulate drug paraphernalia, including specifically prohibiting sales. But for a variety of reasons, business owners routinely challenge these ordinances as unconstitutional and then successfully

invoke virulent public outcry on that basis. This experience—along with costly court challenges—discourages other cities from taking similar steps to curb illegal drug activity, and leaves most cities only able to enforce an inadequate state law.

Most states immediately around Minnesota define "drug paraphernalia" in a detailed way based on a 1979 model federal law designed to avoid constitutional issues. Minnesota does not. Federal law and the law of half the states immediately around Minnesota explicitly ban sales of drug paraphernalia, but Minnesota does not. The current state of the law arguably makes drug paraphernalia easier to obtain in Minnesota than in the states immediately surrounding it.

Response: **The League of Minnesota Cities supports strengthening the current statutory prohibition on drug paraphernalia, including improving the statutory definition of "drug paraphernalia" and explicitly prohibiting sales.**

SD-53. Regulation of Massage Therapists

Issue: The state does not currently license nor register massage therapists. Minn. Stat. ch. 146A is the Complementary and Alternative Health Care Practices Act which identifies prohibited provider conduct and authorizes the Minnesota Department of Health to take disciplinary action against noncompliant providers who are not registered or licensed by a health-related licensing board. The office has authority to respond to allegations of prohibited behavior through an investigatory process but this function is triggered mainly by consumer complaints and there is no requirement that the office take any action. Additionally, resources for these purposes have been severely limited.

In absence of any required statewide standards or regulation, several cities have entered the traditional state domain of health-care licensure by enacting ordinances that require all massage therapists to obtain a local professional license and many cities have also required bricks and mortar establishments to obtain a business license. These ordinances help local law enforcement officers to differentiate between legitimate providers and businesses engaged in sex trafficking and prostitution as well as provide for health and sanitation standards.

City staff and law enforcement have spent much time and resources conducting criminal background checks; investigating massage therapist accreditation programs to determine legitimacy and credibility; and inspecting and monitoring establishments due to citizen complaints and concerns. This has resulted in different procedures, requirements and fee structures across the state. Additionally, despite the thorough work of city staff and law enforcement, when an illegitimate business suspects investigation, it will often close down and re-open in a different city. Without any sort of statewide database of these businesses, one city's solution may become another city's problem.

Response: **The League of Minnesota Cities supports the statewide registration or licensure of massage therapists that would not pre-empt the ability of cities to regulate massage therapy establishments. The League also supports legislation pertaining to the practice of massage therapy that accomplishes the following:**

a) **Helps cities establish legitimacy of providers and businesses applying for a local license to practice.**
b) **Prevents individuals from conducting criminal activities such as prostitution and sex trafficking out of establishments operating as massage therapy facilities.**
c) **Improves provider compliance with Minn. Stat. ch. 146A and requires the state to take action in response to noncompliance.**
d) **Protects the public from injury and from other conditions that may result in harm.**

SD-54. Lawful Gambling and Local Control

Issue: As part of the 2009 reforms to lawful gambling statutes, some local control was removed from the lawful gambling process. Previously, the lawful gambling licensee would have to obtain the city council's approval as part of its application to renew the organization's premises permit (some forms of lawful gambling require obtaining an organizational license and a premises permit(s) from the state). This step was removed when the state established a perpetual organizational license and premises permitting system. Because these licenses and permits are issued by the state, under the current system a city's authority over these licensees is limited to: 1) approval of the initial premises permit; and 2) enforcement of the city's lawful gambling ordinance. Some city officials have concerns that gambling organizations will be more apt to ignore local regulations (such as spending the required percentage of lawful gambling expenditures in the city's trade area) if they don't need the city's approval for the renewal of their state-issued premises permits.

Response: **The licensee should be required to obtain local approval on an annual basis, or at longer intervals as determined by the city, and file the resolution of local approval with the Gambling Control Board.**

SD-55. Liquor Liability Insurance Limits

Issue: Minn. Stat. § 340A.409 requires that "no retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to liability imposed by Minn. Stat. § 340A.801" relating to the sale of alcoholic beverages. The minimum limits of liability currently in statute require $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one occurrence, $50,000 for loss of means of support of any one person in any one occurrence, $100,000 for loss of means of support of two or more persons in any one occurrence, $50,000 for other pecuniary loss of any one person in any one occurrence, and $100,000 for other pecuniary loss of two or more persons in any one occurrence. These limits have not been updated since at least 1985 and would provide very little relief to persons impacted by an intoxicated person. While cities can choose to require higher limits of liability than required by statute, it may create competitive imbalance between communities if the limits are not consistent.

Response: **The minimum limits in Minn. Stat. § 340A.409 should be increased to $500,000 per occurrence with a $500,000 annual aggregate.**

SD-56. On-Sale Liquor or Wine Licenses to Cultural Centers

Issue: Cultural centers are not one of the qualifying entities to which municipalities may issue on-sale liquor or wine licenses. Several cultural centers have received special legislation that allows their municipalities to issue on-sale liquor or wine licenses to them. This practice interferes with the ability of municipalities to control the placement and operating manner of these entities.

Response: **The Legislature should authorize municipalities to issue on-sale liquor or wine licenses to cultural centers, subject to restrictions imposed by the municipality.**

SD-57. Wine and Off-Sale Licenses

Issue: Minn. Stat. ch. 340A authorizes cities to issue liquor licenses to various establishments within their jurisdictions, but in virtually all cases, the license issued by the city is not valid until the state approves it. This is true for such commonly issued licenses as wine, off-sale intoxicating liquor and temporary on-sale intoxicating liquor licenses. The result is extra time spent for city staff, as well as a time-based commercial impact to the business pursuing the original license.

Additionally, if a business applies for an on-sale wine license, the state may choose to conduct an inspection of the business further delaying approval of the license and full operation of the establishment. This inspection is often in addition to a city certificate of occupancy inspection and a county health inspection.

Response: **The Legislature should remove the requirement of approval by the commissioner for city-issued liquor licenses and simply require cities to notify the state of newly issued and renewed licenses as is already the case for intoxicating on-sale liquor licenses and all 3.2-liquor licenses. If the state requires an inspection to certify an on-sale wine license, this should be delegated to either the city or county to be conducted at the same time as other inspections. This will expedite the process for both the state and the business.**

SD-58. Youth Access to Alcohol and Tobacco

Issue: To promote public safety and public health, cities have an interest in preventing youth from obtaining alcohol and tobacco. For example, the Minnesota Department of Health reports that 80 percent of adult smokers had their first cigarette before the age of 18; reducing youth tobacco use may help prevent adverse impacts of tobacco in the future. To this end, many cities operate compliance check programs in an effort to discern the current level of youth access and to reduce youth access. Statewide, a number of cities have created community partnerships with their court systems, local businesses, and school districts to quickly address problems associated with youth access to alcohol and tobacco.

Response: **The League of Minnesota Cities opposes any proposal that could result in increased risks of youth access to alcohol and tobacco products and supports statutory changes that assist in reducing youth access to alcohol and tobacco products. The League supports locally-determined alcohol compliance check programs, but any state mandate for alcohol compliance checks should come with state-supported funding initiatives to support these locally-determined compliance efforts. The Legislature should consider a grant**

program supporting locally-based community partnerships that can quickly and effectively respond to youth access problems.

SD-59. Smoking Ban Ordinances

Issue: In 2007, the Legislature extended the Minnesota Clean Indoor Air Act (MCIAA) to cover all workplaces, including restaurants and bars. The law sets a floor with minimum standards and allows local governments to implement more restrictive ordinances.

In recent years, the popularity and use of electronic cigarettes (e-cigarettes) has increased significantly. There is much that is unknown about the health impacts of e-cigarettes which has slowed government regulation of their sale and use. Because of concerns over potential health impacts and the lack of comprehensive state and federal regulation, cities have passed ordinances on an individual basis restricting the sale of e-cigarettes to minors and prohibiting their use in public places.

In 2014, the Legislature passed regulations on the sale of e-cigarettes to mirror existing cigarette sale regulations including prohibiting sale to minors. It also passed a law prohibiting use in public buildings owned and operated by the State of Minnesota and all political subdivisions. The Legislature did not ban indoor use in all workplaces.

Response: **Many cities have already passed ordinances banning the use of e-cigarettes in all public places. To ensure uniformity and consistency across the state, the Legislature should regulate e-cigarettes under the MCIAA while preserving the ability of local governments to enact more restrictive ordinances.**

SD-60. Regulation of Mobile Businesses

Issue: The transient nature of mobile businesses presents unique challenges to traditional city zoning and permitting and may create an unfair competitive advantage over traditional businesses that pay property taxes and generate income for a city. Cities also make significant investments in the development of retail districts and downtowns and have a strong interest in maintaining a level playing field for brick and mortar establishments.

Minnesota has seen a sharp increase in the number of food trucks (Mobile Food Units) operating throughout the state. Food trucks are licensed as food and beverage service establishments by the Minnesota Department of Health (MDH) or by local jurisdictions pursuant to an MDH delegation agreement. Food trucks are prohibited from operating in the same location for more than 21 days without approval of the regulatory authority.

In 2015, the Legislature authorized the Board of Cosmetologist Examiners to adopt rules governing the licensure, operation and inspection of "Mobile Salons" which are operated in a mobile vehicle or mobile structure for exclusive use to offer personal services defined in Minn. Stat. § 155A.23, subd. 3. The rules must prohibit mobile salons from violating reasonable municipal restrictions on time and place of operation of a mobile salon within its jurisdiction, and shall establish penalties, up to and including revocation of a license, for repeated violations of municipal laws.

Response: **It is appropriate for mobile businesses to be licensed by the state or its designees in the same manner as non-mobile business establishments. Such state regulation must not preempt the**

ability of local governments to enact reasonable time and place restrictions on the operation of mobile businesses within their jurisdictions.

SD-61. Regulation of Party Buses and Boats-for-Hire

Issue: A party bus (also known as a party ride, limo bus, limousine bus, party van, or luxury bus) is a large motor vehicle usually derived from a conventional (school) bus or coach, but modified and designed to carry 8 or more people for recreational purposes. In Minnesota, these vehicles are regulated by default under Minn. Stat. ch. 221 (the chapter of law dealing with motor carriers) and registered by the Minnesota Dept. of Transportation's (MnDOT's) Office of Freight and Commercial Vehicle Operations. The regulations require operators to carry commercial insurance, have an annual vehicle inspection and be registered with the state. Party bus drivers are required to hold a current commercial driver's license (CDL) issued through the Minnesota Dept. of Public Safety's Driver and Vehicle Services Division.

A boat-for-hire is a watercraft used by owners and operators to carry passengers for hire. Minn. Stat. § 326B.94 and Minnesota Rules 5225.6000 through 5225.7200 govern the requirements of boat owners and operators carrying passengers for hire on Minnesota's inland waters. These vessels must have a permit to carry passengers for hire. They must have an annual safety inspection and a dry-dock inspection performed by Minnesota Department of Labor and Industry boiler inspection personnel once every three years (or annually if the hull is made of wood). The vessels must also be operated by a licensed master and must follow all Minnesota Dept. of Natural Resources' boating and water recreation regulations.

Party buses and boats-for-hire are sometimes chartered for celebrations such as weddings, proms, bachelor and bachelorette parties, birthdays and tours. Party buses are also popular for round trips to casinos and sporting events, and personalized drop-offs and pick-ups at various bars and nightclubs. Additionally, both party buses and boats-for-hire have become popular settings for adult entertainment.

Cities have seen a sharp increase in the number of party buses and boats-for-hire being used as venues for illegal activities such as underage drinking, drug use and sex trafficking. The transient nature of party buses and boats-for-hire presents unique challenges to traditional city zoning, permitting and law enforcement. While state laws regulate requirements for the operation of party buses and boats-for-hire, the law is silent on enforcement, penalties, inspection and liability related to illegal activities that occur in party buses and on boats-for-hire.

Response: **The League of Minnesota Cities supports changes to state statutes that would help reduce criminal activities taking place on party buses and boats-for-hire. Specifically, the League supports:**

a) **Creation of statutory definitions of "party bus" and "boat-for-hire" that contain permissible uses of the vehicles;**
b) **Prohibition on offering or allowing "adult entertainment" as defined by Minn. Stat. § 617.242, "sexual conduct" as defined by Minn. Stat. § 617.241, or "nudity" as defined by Minn. Stat. § 617.292, subd. 3, on party buses and boats-for-hire;**
c) **Explicit authority for peace officers to investigate suspicious activities on party buses and boats-for-hire and to**

cite individuals on board who are involved in illegal activities; and

d) **Requiring the appropriate authority to utilize existing authority to impose fines, or to deny, suspend, or revoke permits or registration certificates held by operators found to have adult entertainment, drug, or underage consumption violations.**

SD-62. Environmental Protection

Issue: Cities demonstrate strong stewardship for the protection and preservation of the environment. Minnesota municipalities have historically been the leading funding source for environmental protection and improvements. Municipal efforts include environmental protection through wastewater treatment, wetland restorations, stormwater treatment, public utility emission reductions, brownfield cleanup, safe drinking water programs, as well as others.

At some point, however, the diminishing or nonexistent environmental benefit received from additional efforts is fiscally irresponsible. The programs are often improperly designed to meet their stated goals. Additionally, the absence of funding by the state and federal government has removed an essential restraining feature in program design and implementation. Agencies are less accountable to the governments that mandate environmental programs when they do not have to find the money to implement the programs.

Specific problems faced by cities include:

a) New programs or standards are continually adopted without regard to the existence, attainability or cost of existing programs and standards.
b) Regulatory bodies fail to consistently use the best science available and the most current and accurate data when establishing water quality standards.
c) Regulatory bodies impose new permit requirements without going through rulemaking. Instead, the agencies rely on internal documents, program strategies, and "best professional judgment of staff" when setting permit criteria.
d) Regulatory bodies approve permits and programs that compete with traditional municipal services and encourage urban sprawl. This behavior puts at risk the public investments and growth management efforts cities have made when planning for future development.
e) Permit fees and other cost-transfer elements of federal and state programs do not provide an incentive for environmental agency efficiency, policy prioritization or risk assessment. Additionally, all residents of the state contribute to the need for wastewater, drinking water, and stormwater treatment and benefit from the resulting improved water quality. These factors make the state general fund an appropriate source for significant portions of state water program funding.
f) Third-party environmental advocacy groups create significant hardships on cities by threatening litigation even when the best science available may not support the groups' positions.
g) Cities are often required to pay the cost of removing problem materials from the waste stream, rather than preventing the problem at the consumer product or manufacturing level.

Response: **Alternative wastewater treatment and cooperative service systems should be prohibited from operating in areas that can reasonably and effectively be served by existing municipal systems, unless:**

a) **The municipal system is proven to be substantially less cost-effective and substantially less beneficial to the environment; and**
b) **The operation of these systems will not create a stranded public investment in the existing system.**

Sufficient state and federal financial assistance should be provided to local governments when complying with state and federal infrastructure requirements, particularly with regard to wastewater, stormwater, and drinking water facilities.

The Minnesota Pollution Control Agency (MPCA) should streamline its permitting and re-issuing processes to allow for effluent standards and permit requirements to be known earlier, thereby giving communities more time to defend against contested case hearings.

The Legislature should require the MPCA to make its determination regarding permit-required submittals, permit modifications, and the reissuance of a permit within a reasonable set time period, and require the MPCA to make its determinations and reissue the permit within that reasonable set time frame.

The state should ensure townships are required to meet the same environmental protection and regulatory requirements as cities.

Legislation should be passed that requires state agencies to establish permit requirements only when the criteria they are using is developed through the rule-making process.

State agencies need to develop science-based standards and quantify new effluent standards, ensuring that they are scientifically and economically practicable. State and federal agencies should coordinate and integrate their monitoring data to assure that all pertinent data is available and utilized.

The state general fund is an appropriate source for state water program funding. Municipal water permit fees should only be increased if new revenue is needed because of increased costs of processing municipal water permits or if the funds would go for specific scientific research, technical and financial support for cities, or agency staffing needed by cities to address environmental and public health concerns, not as a means to generate new revenue to cover other budget shortfalls.

Additionally, the Legislature should create effective, producer-led reduction, reuse, and recycling programs to deal with a product's lifecycle impacts from design through end-of-life management and should regulate products and compounds that damage water quality, sewer collection, stormwater or wastewater treatment systems at the consumer and manufacturing levels, not just at the treatment and infrastructure maintenance level. Examples include requiring accurate labeling as to whether disposable wipes can be safely flushed and creating incentives for private salt applicators to reduce the volume of salt they apply.

SD-63. Impaired Waters

Issue: Despite the billions of dollars that Minnesota municipalities have invested and continue to invest in wastewater and stormwater management systems, and best management practices to protect, preserve, and restore the quality of Minnesota's surface waters, the quality of some of Minnesota's surface waters does not meet federal water quality requirements. The

federal Clean Water Act requires that further efforts be made by the state to reduce human impacts on surface waters that are determined to be impaired due to high pollutant loads of nutrients, bacteria, sediment, mercury, and other contaminants. Scientific studies of these waters must be conducted to determine how much pollution they can handle (Total Maximum Daily Loads, or TMDLs). The pollutant load reduction requirements will affect municipal, industrial, and agricultural practices and operations along any river, stream or lake determined to be impaired. While the sources of 86 percent of the pollutants affecting Minnesota waters are non-point sources, there will also be new costs and requirements for point-source dischargers, like municipal wastewater treatment facilities. Municipal stormwater systems will also face increased protective requirements and regulation as part of the state's impaired waters program.

Response: **The League of Minnesota Cities will work actively with the administration, the Legislature, and other stakeholders in the design and implementation of Minnesota's impaired waters program to:**

a) **Ensure equitable funding solutions are found, such as the state general fund or bonding, that broadly collect revenue to address this statewide problem;**
b) **Support legislative appropriation of constitutionally dedicated clean water revenues that will supplement traditional sources of funding for these purposes, not be used to cover budget cuts, backfill past program reductions, or to otherwise supplant normal state spending on water programs;**
c) **Direct the majority of funds collected by the state for impaired waters into programs that fund municipal wastewater and stormwater projects, and for state programs needed for municipal wastewater and stormwater permitting and technical support, including the Clean Water Revolving Loan Fund, Wastewater Infrastructure Fund, TMDL Grants Program, Small Community Wastewater Treatment Grant and Loan Program, and other state programs that provide financial resources for city wastewater treatment facilities, septic tank replacement, stormwater management projects, and other city water quality improvement and protection projects;**
d) **More adequately cover the current five-year wastewater infrastructure funding need projection of more than $1.65 billion;**
e) **Recognize and address the upcoming costs of stormwater management infrastructure and operation on municipalities from new regulatory mandates and load reduction requirements;**
f) **Allow flexibility in achieving pollutant load reductions and limitations through offsets or trading of pollutant load reduction credits for both point and non-point load reduction requirements within watersheds;**
g) **Recognize and credit the work underway and already completed by local units of government to limit point and non-point source water pollutant discharges;**
h) **Recognize the diversity of efforts and needs that exists across the state;**
i) **Ensure the best science available is used to accurately determine the sources of pollutant load in order to maximize positive environmental outcomes and minimize unnecessary regulatory and financial burdens for**

cities by correctly accounting for and addressing agricultural and other non-point pollutant sources;

j) Ensure the state requires that the MPCA retain control of the TMDL development process and that all scientific research related to TMDLs is conducted by the MPCA or qualified, objective parties pursuant to state contracting, procurement, and conflict of interest laws; and

k) Clarify state water quality mandates so cities know specifically what they are required to do and what methods of achieving those outcomes are acceptable to state and federal regulators.

SD-64. Municipal Public Water Supplies

Issue: Essential residential water supplies provided by public water supply systems are classified as the highest priority for the use of public water under Minn. Stat. §103G.261. Minnesota cities spend significant resources meeting their responsibility to providing safe, reliable, affordable water to their residents in a sustainable manner. That is an essential element in assuring a healthy and stable future for public health, the environment, and economic development. As a result, municipal water suppliers have collected some of the most current and accurate information available on local water conditions.

The state requires extensive planning and permitting processes for municipal water suppliers to document that their systems are drawing water at sustainable levels, that the water is safe for human consumption, that they have land use controls in place to protect public water supplies from contamination, that adequate plans exist for emergency and high demand situations, and that rate structures meet state statutory requirements. Those systems are constantly becoming more technologically, environmentally, and economically efficient. City water suppliers have invested many billions of dollars to develop their utility systems and infrastructure in a manner that meets those criteria.

Demand and supply sides of this issue are being addressed throughout the state. Cities have established educational programs, incentives, and local water use restrictions to further improve water conservation efforts, while appliances and plumbing fixtures are becoming more efficient in their water use. Furthermore, stormwater is being infiltrated into the ground at unprecedented levels as part of municipal stormwater permit requirements and is being redirected for irrigation purposes in some cities.

Despite those efforts, there are places in the state where monitoring data indicates that water may be being used faster than the supply can sustain, particularly in the case of underground aquifers. These issues are very complex, however, and causes and effects are not always easily documented or understood. City water supplies are not the only users of that water, either. Industries, smaller private wells, agricultural operations, irrigation systems, and contamination containment and treatment can all be major drains on local water supplies.

Hard facts and sound science need to be used to determine the best courses of action to assure that safe, reliable, affordable water supplies are available to future Minnesotans. Those approaches will vary considerably depending on local water and soil conditions, the types and sizes of users, and the quantity and quality of available water. They also need to be coordinated between the many state entities that play a role in

water management and regulations so that scarce local resources are not wasted and efforts are not counterproductive to other priority environmental and public health results.

Response: **The state should lead the development of sound scientific information on water supply, aquifer recharge, and groundwater availability and quality, making good use of the existing studies, data, and staff expertise of municipal water suppliers.**

The state should also be working to remove barriers to water re-use, aquifer recharge, encouraging cultural changes in water use practices, applying technology for smart water use, exploring impacts and creative mitigation options at contaminated sites, on ways to incent and enable alternate uses of stormwater, and ways to make sure that all water users play a role in ensuring that water supplies are being managed in a manner that is sustainable for future residents. Those solutions need to keep in mind that essential residential water use is the highest preferred use of public water supplies.

Finally, in cases where sound management of water resources will require substantial modifications in public water systems that were previously determined to be adequate, the state needs to be a partner in developing cost-effective solutions and in providing the technical and financial resources to make those changes to prevent communities from being economically uncompetitive.

SD-65. Municipal Electric Utilities

Issue: Municipal electric utilities provide essential community services to many Minnesota cities. The League of Minnesota Cities works closely with the Minnesota Municipal Utilities Association (MMUA) to identify issues of concern and to support their legislative and administrative efforts to address them.

How those entities are regulated by the state, how their service territory is defined and amended, how their very limited customer base is protected, and how they are treated in relation to other types of electric utilities is important to them remaining affordable, efficient, and effective.

Currently, the legislative proposals have been made to allow unregulated third-party electricity sales from generators directly to the customer, circumventing long-established consumer protections. In some cases, municipal utilities would be required to "wheel" energy from third parties across their power lines to retail customers in violation of the utility's exclusive service area rights.

Another way to arrange third-party sales is by selling electricity from solar panels or other generating equipment sited on a consumer's own property to retail customers, while maintaining ownership of those panels or equipment. The equipment owner would charge for electricity it provides, yet rely on the local utility to provide reliable service to the customer at all other times. While such arrangements may seem convenient to an unregulated third-party, they come at a significant cost to the utilities and subsequently, to the rate payers of that utility.

Providing municipal reliable utility services comes with certain unavoidable expenses such as electric generation, power lines, poles, and substations. These types of fixed costs are on-going and should be equitably shared by the local customers. However, both current and previously proposed changes to state law would give third-party

providers an advantage subsidized by the remaining rate payers and/or taxpayer.

Response: **The legislature should support and maintain the current regulatory compact, and recognize the value of the dependable services provided by municipal utilities, and the fact that municipal utilities are accountable directly to the citizens. Further, the legislature should reject giving third-party providers any advantage over municipal utilities, as well as any other effort to de-regulate utilities.**

Additionally, current state practice is for the Department of Commerce and Public Utility Commission to require payment of quarterly fees on municipal utilities to the Department of Commerce three quarters in advance. The state should bill for those fees only for the upcoming quarter

SD-66. State Support for Municipal Energy Policy Goals

Issue: The State of Minnesota has adopted an aggressive energy policy focusing on the promotion of energy efficiency and the expansion of renewable energy with the goal of achieving a reduction in carbon generation through reduced use of fossil fuels. Minnesota cities share this goal, as demonstrated by over 100 cities voluntarily participating in the GreenStep Cities program. However, already strained budgets and reserves at the state and local level have limited the ability of the state to assist local units of government in furthering specific projects that support the overall state goal. In addition, institutional knowledge and capacity of most cities limits their ability to explore energy efficiency or renewable energy projects, even projects whose energy "payback" could finance project capital costs.

As the role cities are playing in reducing energy use and developing renewable energy generation expands, how those efforts are affected by electric utility practices also becomes more important. Utility billing is not consistent between electric utilities, with many using different rate categories, significantly complicating B3 benchmarking reporting and billing transparency. For projects on which a utility provides capital, the length of time over which city projects are amortized can also be extended to the point that energy cost savings are eliminated, even with substantial demand reductions. The application of demand and peak demand rates in repayment schedules can also reduce or eliminate energy cost savings.

Response: **The League of Minnesota Cities calls on our legislators and state executive agencies charged with accomplishing the state's energy policy goals to assist cities, townships and counties with tailored efforts to identify appropriate energy efficiency and renewable energy projects for undertaking at the local level. Among those tools, the state should:**

a) **Help ensure that reduced energy use results in reduced energy costs by addressing problems with amortization timing;**
b) **Have laws that allow and support utility grant and loan programs;**
c) **Create a program to assist in covering local capital costs to install solar energy systems on public buildings;**
d) **Use proceeds from the Renewable Development Fund to support local government projects;**
e) **Provide increased flexibility for utilities to work with local government;**
f) **Support development of a unified electric energy billing and usage structure that is easily imported into a B3 Benchmarking tracking system;**

g) **Develop a framework that allows Property Assessed Clean Energy Programs;**
h) **Play an increased role in providing a network of charging stations to support a transition to electric vehicles;**
i) **Create a grant and loan program to offset start-up capital expenses for projects identified where the savings in energy costs can offset capital project costs or where projects are needed to meet energy policy goals;**
j) **Clarify state law so that cities may use public utility franchise agreements to advance energy policy goals, and;**
k) **Recognize that state energy agency technical expertise needs to be made available to cities at no cost.**

SD-67. Urban Forest Management Funding

Issue: Urban forests are an essential part of city infrastructure. Dutch elm disease, oak wilt disease, drought, storms, and emerald ash borer threaten our investment in trees. The costs for control and removal can be catastrophic and put pressure on city budgets. The Minnesota Department of Natural Resources, through its Urban and Community Forestry program, and the Minnesota Department of Agriculture, through its Shade Tree and Invasive Species program, currently have regulatory authority to direct tree sanitation and control programs. Although these programs allow for addressing some tree disease, pest, and other problems, funding levels have been inadequate to meet the need of cities to build capacity for urban tree programs and respond to catastrophic problems. Cities share the goal of the state's Releaf Program—promoting and funding the inventory, planning, planting, maintenance, and improvement of trees in cities throughout the state. In addition, economic gains for stormwater management, tourism, recreation, and other benefits must be protected from tree loss. A lack of timely investment in urban forests costs cities significantly more in the long run.

Further, more and more cities are facing immediate costs for the identification, removal, replacement, and treatment of emerald ash borer (EAB) as it spreads across the state. The state has no program to assist cities in covering those expenses.

Response: **The League of Minnesota Cities supports funding from the general fund or other appropriate state funds for a state matching grant program to assist cities with building capacity for urban forest management and meeting the costs of preparing for, and responding to, catastrophic urban forest problems.**

Specifically, direct grants to cities are desperately needed for the identification, removal, replacement, and treatment of trees related to management of EAB. The state should establish an ongoing grant program with at least $5 million per year that is usable for those activities.

SD-68. Election Issues

Issue: Cities play an important role in administering state and federal election law and conducting voting activities.

Response: **To strengthen the effectiveness of elections administration, the Legislature should:**

a) **Seek the input of cities, townships, counties, and school districts on proposed changes to voter registration, election law, and needed improvements and updates to the Statewide Voter Registration System;**

b) **Amend the timeline for candidate filings in cities without a primary so that the final day of filing is not on the August primary date;**
c) **Expedite court action to resolve candidate eligibility related to residency in errors and omissions proceedings; and**
d) **Eliminate redundant audio testing of assistive voting technology and equipment by election judges in precinct polling places on Election Day.**

SD-69. Administering Absentee Balloting

Issue: Eligible voters in Minnesota may vote by absentee ballot prior to Election Day. Starting 46 days before the election, a voter can request an application for an absentee ballot and if approved, receive and cast an absentee ballot in one visit to their county or city election offices. Ballots can also be requested, applied for and received by mail and returned by the voter to the election office by 3:00 pm on Election Day or by 8:00 pm on Election Day if delivered by mail or package delivery. Absentee balloting results are not known until combined with polling place results when the polls close on Election Day.

For those voting absentee in-person, the absentee ballot application process is burdensome and confusing as voters expect the same process they encounter in their polling place on Election Day. The application process should be replaced by having the voter verify their identity on a paper or electronic roster. Currently electronic signatures are not allowed by state law; having the authority to use electronic signatures would make the process more efficient. Streamlining the voter check-in procedures would increase efficiency and decrease the time voters spend in line waiting to cast their absentee ballot.

Minn. Stat. § 203B.121, subd. 4 stipulates that at the close of business on the seventh day before Election Day, elections administrators can begin processing absentee ballots received by mail and accepted. At the beginning of the seventh day before Election Day, in-person absentee voters can place their ballots directly into a tabulator (Minn. Stat. § 203B.081, subd. 3). If a voter who has voted absentee prior to the seventh day before Election Day wishes to "claw back" their ballot and receive a new ballot, they are able to do so through the seventh day. Once direct balloting begins, a voter should no longer be able to "claw back" a ballot. Additionally, opening absentee ballots that have been accepted should begin at the beginning of the day on the seventh day before Election Day.

For those who vote in-person absentee prior to the seven days before Election Day, there is confusion and in some cases, frustration that they are not allowed to place their ballots directly into a tabulator. To improve the voter experience and respond to the voter demand to vote early, this time period should be increased from seven to the full 46 days before Election Day. Additionally, a voter can request to place their ballot in a series of envelopes similar to those returned by mail to be processed after they have left the building. Few, if any, voters request to place their ballot into envelopes.

State law allows alternative sites for conducting absentee balloting but requires that these sites remain open for the full 46 days prior to Election Day. For some jurisdictions, staffing alternative sites for the full 46 days is not efficient as these sites may be underutilized until closer to Election Day. Cities should be able to determine the length of time most appropriate for

alternative sites to meet the voting demands of their residents. As required by state law, voters would maintain the ability to vote in-person absentee during the full 46-day period at city halls.

Current law allows for in-person absentee voting until 5:00 p.m. on the day before Election Day. This does not leave adequate time for election officials to process absentee ballots, prepare supplemental lists indicating which voters have already cast absentee ballots and deliver the lists to precincts prior to opening of the polls on Election Day. The current absentee voting process further requires that additional supplemental lists of final absentee voters be delivered to the polls after the last mail delivery on Election Day and often leads to administrative challenges and increased potential for errors in the process.

As more and more voters choose to vote early with absentee balloting, improvements must be made to increase efficiency of administering absentee balloting before Election Day, reduce the potential for errors, and to improve voter experience.

Response: **The League of Minnesota Cities supports:**

a) **Reviewing the current in-person absentee ballot application process to determine if paper, electronic or a combination of the two application processes would be more efficient and be preferable to voters;**
b) **Amending state statute to allow elections administrators to begin processing accepted absentee ballots when direct balloting begins at the beginning of the seventh day before Election Day and subsequently, concluding the "claw back" period at the close of business the day before;**
c) **Increasing the time period that an in-person absentee voter can place their ballot directly into a tabulator from seven to 46 days;**
d) **Eliminating the option to place an in-person absentee ballot in a series of envelopes instead of a tabulator;**
e) **Allowing alternative in-person absentee voting sites to be established for less than the full 46 days currently required by state law;**
f) **Establishing an earlier deadline for ending in-person absentee voting;**
g) **Revising absentee ballot regulations to allow any person 18 and older to witness the absentee process and sign the envelope as a witness; and**
h) **Authorizing cities with health care facilities to schedule election judges to conduct absentee voting at an earlier date in health care facilities.**

SD-70. Felon Voting Rights

Issue: There is confusion as to when felon voting rights are restored, and notification of restoration is inconsistent or nonexistent. While there were some changes made to data sharing requirements between the Department of Corrections and the Office of the Secretary of State in the 2013 legislative session, the process of notifying felons of their eligibility to vote was not improved. This very often leads to challenges placed on Election Day rosters for felons who are not eligible to vote and election judges must then challenge the voter and spend time and resources determining a voter's eligibility. It would be much clearer if the loss of voting rights occurred only when a person is incarcerated.

Response: **The League of Minnesota Cities opposes the loss of voting rights for felons who serve the entirety of their sentence in the community and are not incarcerated. If incarcerated, the League**

of Minnesota Cities supports the restoration of voting rights to felons once they have completed their term of incarceration. This will eliminate the administrative burden of challenging voters at the polls and determining eligibility from various jurisdictions. This will also eliminate the need for investigation by local law enforcement of those who have unknowingly registered to vote or voted before their rights were restored.

SD-71. Write-in Candidates in City Elections

Issue: For federal, state and county offices, write-in candidates are totaled together as one number for write-in votes. If a candidate wants the write-in votes to be individually recorded, the candidate must file a written request with the Secretary of State no later than seven days before the general or special Election Day. This provides any declared write-in candidate the same provisions for tabulation as a candidate whose name is printed on the ballot. Because this requirement does not exist in city elections, city election officials are required to take considerable time and resources to count and individually record write-in votes cast, many of which are frivolous.

Response: **The League of Minnesota Cities supports legislation to:**

a) **Give cities the option to require that write-in candidates for local elective offices file a formal request with the chief election official at least seven days before the city election if they wish to have their write-in votes individually recorded; and**
b) **Allow the city clerk to only compile and report write-in votes for specific candidates if the total number of write-in votes for an office is greater than or equal to the number of votes received by the candidate appearing on the ballot receiving the fewest number of votes.**

SD-72. Ranked Choice Voting

Issue: Current law allows charter cities to consider and adopt Ranked Choice Voting (RCV) as an alternative voting method in local elections. State statute does not extend this authority to statutory cities. Additionally, there are no statewide standards for conducting RCV. The lack of consistent guidelines on how to effectively implement a RCV system imposes significant challenges for election administrators and voters.

Response: **The League of Minnesota Cities supports legislation that would give statutory cities the same authority given to charter cities to consider and adopt RCV. The League of Minnesota Cities also supports statewide standards for those cities that choose to adopt RCV to ensure it is implemented consistently throughout the state to give voters confidence in the fairness of the alternative process of casting their ballots and in the outcome of such elections.**

SD-73. Posting Campaign Finance Reports Online

Issue: The 2014 Legislature passed a law requiring the filing officer of a local government to post all campaign reports required to be filed with the local government online. The law does not change what reports must be filed and only requires the posting of reports online if a city has a website. The filing officer must post the reports on the city's website as soon as possible, but no later than 30 days after receipt of the report. The reports must be available on the city's website for four years

from the date the report was posted to the website.

While posting the reports online may be more convenient for citizens and city staff alike as it will replace the physical distribution of reports upon request, the time required to make the report available may be difficult for maintenance of city websites.

Response: **While the League of Minnesota Cities supports increasing access to information through the use of city websites, the League also urges the Legislature to revisit the length of time required to keep reports online.**

SD-74. Electronic Rosters

Issue: While electronic rosters (or "e-poll books") may increase efficiency and decrease cost for some cities, this may not be true for all. As cities explore the use of electronic rosters, data collected from the Office of the Secretary of State and from jurisdictions that have used the technology, may be helpful in determining next steps and to improve the process. Currently when a voter verifies their identity at a polling place via an electronic roster, they sign a paper form. State law does not allow voters to sign the e-poll book.

Response: **As the Legislature continues to examine the use of electronic rosters, cities should retain the option of utilizing this technology but should not be required to do so. If cities choose to use e-poll books, the use of electronic signatures should be allowed to increase efficiency. To ensure there is a paper copy of the signatures, the receipts printed by the electronic rosters should include a copy of the voter's signature.**

SD-75. Election Judge Recruitment and Retention

Issue: Nearly 30,000 Minnesotans serve as election judges. The recruitment and retention of election judges is a significant and essential component of administering elections throughout the State of Minnesota.

State statute requires that precincts with more than 500 registered voters be assigned at least four election judges and those with fewer than 500 registered voters be assigned at least three election judges. Minn. Stat. § 204B.21 requires that at least two election judges in each precinct serve with a different major political party designation, except for student trainee election judges. The remaining election judges in a precinct can serve without an affiliation to a major political party and no more than half the judges in a precinct may belong to the same major political party. Statute specifically requires election judge party balance to perform four polling place activities: assisting a voter in curbside voting; opening the ballot box; duplicating ballots; and in conducting an election at a Healthcare Facility. Political party affiliation is also unnecessary in city special elections when offices on the ballot are nonpartisan.

Minn. Stat. § 204B.19 allows high school students to be excused from school to serve as a trainee election judge if the student submits a written request signed and approved by the student's parent or guardian to be absent from school and a certificate from the appointing authority stating the hours during which the student will serve as a trainee election judge to the principal of the school at least ten days prior to the election. This process is not currently extended to college students which has proven to be a barrier for recruiting college students to serve as election judges.

Additionally, teachers and college faculty are also allowed to take time off of work to serve as an election judge.

Response: **To ensure state requirements are met, party balance is maintained, and to expand the opportunity of serving as an election judge to others, the League of Minnesota Cities supports the following changes:**

a) **Eliminate the party balance requirement for elections where only nonpartisan offices and/or ballot questions are on the ballot;**
b) **Authorize college students to get time off from classes if they have been appointed to serve as an election judge;**
c) **Allow for one election judge affiliated with each major political party to perform the four activities that require party balance specifically outline in statute and allow the remaining judges to serve as non-partisan; and**
d) **Shorten the deadline for major political parties to provide lists of persons interested in serving as election judges to election officials within 30 days following precinct caucuses.**

SD-76. Mail Balloting

Issue: Minn. Stat. § 204B.45 authorizes all non-metropolitan townships and cities with less than 400 registered voters located outside of the Minneapolis/St. Paul seven-county metropolitan area to hold elections by mail. A city may conduct mail balloting for an individual precinct having fewer than 100 registered voters, subject to the approval of the county auditor.

Staffing and equipment needs can be very costly and mail balloting is an efficient way of conducting an election for cities that have lower numbers of registered voters regardless of location in or outside the metro area. It is not uncommon for the redistricting process to create very small precincts in the metro area that are more cost-effectively served by a mail balloting process. Additionally, for special elections that historically have lower turnout, mail balloting could increase voter participation.

Response: **The League of Minnesota Cities supports allowing all cities to conduct mail balloting.**

SD-77. Modernizing Charter Amendment Process

Issue: Minn. Stat. § 410.12 outlines the process for amending city charters and one of the methods is citizen petition and Minn. Rules 8205 provides specific criteria for formatting. City staff then review the petition to determine if it is valid and has met statutory requirements for completion and submission. To ensure that both citizens and city staff fully understand the requirements, clarifying changes should be made.

Additionally, if a charter commission or city council wishes to amend provisions in a charter that prohibit the sale of intoxicating liquor or wine in certain areas, such provisions shall not be amended or removed unless approved by voters. The process to amend a charter by ordinance is outlined in statute including notification and public hearing requirements.

Response: **To improve the process for amending a city charter, the League of Minnesota Cities supports:**

a) **Adding clarifying language regarding "registered voters". These voters**

must be eligible voters in the district for which the petition is being circulated who are in active status on the statewide registration system at the time of petition verification and have not had a name or address change since the most recent voter registration application was submitted.

b) **Ensuring that petitioners have access to the petition, public information lists used to verify registered voters, and the examination log available for inspection on request of any registered voter.**
c) **Revising Minn. Rules 8205 to ensure that formatting requirements are clear and up to date.**

Allowing cities to modify liquor provisions in the charter through an open and transparent process that does not require an election.

SD-78. Presidential Primary

Issue: In 2016, the legislature passed into law a process for the state of Minnesota to conduct a presidential primary in 2020, replacing the party caucus system. This election will be administered by cities and counties much the same way other elections are conducted.

Minn. Stat. § 207A.15 provides a process for local units of government to be reimbursed for expenses incurred from conducting the primary. The Office of the Secretary of State (OSS) will submit to the Department of Management and Budget (MMB) an estimated cost of administering the election, and MMB will provide funding to the OSS. That funding will then be distributed to local units of government as a reimbursement based on expense reporting submitted to the OSS. Because the election is a partisan activity administered on behalf of political parties, it is critical that local units of government be reimbursed fully and that the cost of the election not be borne by Minnesota taxpayers.

When a voter participates in the primary, they will choose one ballot representing one major party. This party declaration will be included in public information lists which are designated as public information. Though the election is a political activity, it is anticipated that voters will be very concerned that this information will be accessible by anyone.

The last time the state of Minnesota held a presidential primary was in 1992 and turn-out was very low. There is concern that this could happen in 2020 and would therefore be an inefficient use of resources, particularly staffing thousands of precincts throughout the state. Conducting the election by mail could conserve resources and potentially increase voter participation.

Response: **The current process for conducting a presidential primary in 2020 needs to be improved to ensure an efficient and positive voting experience for those who chose to participate. To do so, the League of Minnesota Cities supports:**

a) **Exploring expanding the list of reimbursable items currently outlined in statute to ensure that local units of government are fully reimbursed for conducting the primary;**
b) **Restricting the dissemination of party declaration information to the political parties only and not including it on the public information lists; and**
c) **Allowing the presidential primary to be conducted via mail balloting.**

IMPROVING LOCAL ECONOMIES

LE-1. Growth Management and Annexation

Issue: Unplanned and uncontrolled growth has a negative environmental, fiscal, and governmental impact on cities, counties, and the state because it increases the cost of providing government services and results in the loss of natural resource areas and prime agricultural land.

Response: **The League of Minnesota Cities believes the existing framework for guiding growth and development primarily through local plans and controls adopted by local governments should form the basis of a statewide planning policy, and that the state should not adopt a mandatory comprehensive statewide planning process. Rather, the state should:**

a) **Provide additional financial and technical assistance to local governments for cooperative planning and growth management issues, particularly where new comprehensive plans have been mandated by the Legislature;**
b) **Keep comprehensive planning timelines on a ten-year cycle due to the financial and workload impacts these processes place on cities;**
c) **Clearly establish the public purposes served by existing statewide controls, such as shore land zoning and wetlands conservation; clarify, simplify, and streamline these controls; eliminate duplication in their administration; and fully defend and hold harmless any local government sued for a "taking" as a result of executing state land-use policies;**
d) **Give cities broader authority to extend their zoning, subdivision, and other land-use controls outside the city's boundaries, regardless of the existence of county or township controls, to ensure conformance with city facilities and services;**
e) **Clearly define and differentiate between urban and rural development and restrict urban growth without municipal services or annexation agreements outside city boundaries. This should contain a requirement that counties and joint power districts that provide sewer, water, and other services, which have been traditionally provided by cities, include as a condition of providing service the annexation of properties that are the recipients of such services in cases where annexation is requested by a city that could feasibly be providing those services;**
f) **Facilitate the annexation of urban land to cities by amending state statutes that regulate annexation to make it easier for cities to annex developed or developing land within unincorporated areas;**
g) **Oppose legislation that would reinstate the election requirement in contested annexations;**
h) **Support legislation to prohibit detachment of parcels from cities unless approval of the detachment has been granted by both the affected city and township and the affected county has been notified prior to the city and township acting on the request;**
i) **Oppose legislation that allows orderly annexation agreements to be adopted that prohibit annexation by other cities of property not being annexed under the agreement;**
j) **Encourage ideas consistent with the long-term goal of allowing urban**

development only in areas currently or about to become urban or suburban in character ; and

k) **Establish stricter criteria on the amount cities can pay to townships as part of an orderly annexation agreement so that payments to townships are limited to reimbursement for lost property tax base for no more than a fixed number of years, documented stranded assessments, and other items for which there is a clear nexus.**

LE-2. Wildlife Management Areas

Issue: The Department of Natural Resources has been pressing for legislative requirements creating development restrictions on property adjacent to land purchased by the state for hunting and other conservation purposes. This issue has been increasingly controversial as urban growth extends into areas previously considered rural and residential property owners are finding themselves adjacent to public hunting land. With large amounts of new revenue going into state land purchase for game and fish habitat and public access purposes because of the passage of the constitutional amendment, these problems could occur even more frequently.

The solution being proposed will put local governments in the position of enforcing state land use restrictions and would require extensive changes to local plans, controls and ordinances. It would also create large numbers of nonconformities on properties within city limits and would make state wildlife management areas far less desirable due to impacts on future city development.

In rural areas, where this is less of a concern, counties and townships have the authority to object to the state purchasing land for the outdoor recreation system for these very reasons. Cities do not have that statutory right. Due to recent statutory changes (Minn. Stat. § 97A.137, subd. 4) removing city authority to adopt ordinances related to firearm discharge, hunting and trapping activity in wildlife management areas within their borders, these purchases should not occur without city consent and input.

Response: **The League of Minnesota Cities opposes the state imposing retroactive development restrictions around existing wildlife management areas.**

When purchasing state wildlife management areas and other conservation and outdoor recreation system land, the state should either purchase sufficient land to provide an internal buffer from surrounding development or purchase development rights to land adjacent to the property if such a buffer is deemed essential to preserving the intended uses for the property. This should be required for new land purchases and done where feasible for existing wildlife management areas.

Furthermore, Minn. Stat. § 84.944 and § 97A.145 should be amended to include cities in the local government notification and approval process the state must follow before purchasing public land.

LE-3. Official State Mapping Responsibility

Issue: For many years, the Minnesota Department of Transportation (MnDOT) has provided the mapping services to keep survey-level accuracy in place for the state's official maps and records. That information changes when roads are made or improved, and needs regular adjustment when municipal boundary adjustments are made.

The information is then used at all levels of government to accurately determine property boundaries for transportation aid, utility service boundaries, state and local funding formulas, election issues, and a number of other uses.

No state agency, however, has ever been statutorily provided with mapping responsibility and MnDOT is not funded for providing that level of detail in its mapping. Because MnDOT, as an agency, requires less specificity in its maps, a change has slowly been integrated to mostly restrict MnDOT mapping to what changes occur in road ownership and responsibility, leaving many mapping needs unmet for other users of boundary data.

Response: **The League of Minnesota Cities supports legislation making a named state entity the official provider of survey-level mapping for the state, including maps for municipal boundary adjustments. The Legislature must provide the necessary appropriations to the entity for providing that service.**

LE-4. Electric Service Extension

Issue: Minnesota law preserves the right of municipal electric utilities to grow with the cities they serve. Municipal electric utilities may grow either through application to the Minnesota Public Utilities Commission (MPUC) or through condemnation proceedings. Eliminating authority of municipal electric utilities to extend services, or making extension of municipal electric service to annexed property unreasonably costly, would interfere with community development and make it unfeasible for municipal electric utilities to serve properties located within rural electric cooperative (REC) or other electric service provider service territory in annexed areas, even if the REC or other electric utility had not served them prior to annexation.

Response: **The League of Minnesota Cities opposes any attempt to remove or alter the eminent domain option available to municipal electric utilities in state law, or to make it financially unfeasible for municipal utilities to compensate rural electric cooperatives or other electric utilities for serving future customers who reside in annexed areas where that electric utility has not provided service.**

LE-5. Statutory Approval Timelines

Issue: Cities since 1995 have been required to act on written requests relating to zoning, septic systems, the expansion of Metropolitan Urban Service Areas (MUSA), and other land-use applications in accordance with a statutory time period generally referred to as the 60-day rule. Pursuant to Minn. Stat. § 15.99, state and local government agencies must approve or deny a permit within a statutory timeframe. Failure by the agency to issue a specific denial of the application is deemed an approval.

Minn. Stat. § 15.99 does not directly address whether an appeal of a decision triggers an extension or is part of an original zoning request that must be handled within the 60- or 120-day time period. In a 2004 Minnesota Court of Appeals decision, the court found that a zoning application is not approved or denied for the purposes of Minn. Stat. § 15.99 until the city has resolved all appeals challenging the application. *Moreno v. City of Minneapolis*, 676 N.W.2d 1 (Minn. Ct. App. 2004). According to the court, an appeal is not a request for a permit, license or other governmental approval; therefore, it does not trigger a new 60-day time period. Under this interpretation, a decision

rendered by a zoning board or planning commission is not the final approval or denial of an application if the city allows an appeal to the city council.

This court decision is problematic for a couple of reasons. Forcing cities to further condense the process for considering planning and zoning applications will make it more difficult to gather public input and leave less time for thoughtful deliberation by zoning boards and planning commissions. It may also provide an incentive for cities to extend the original 60-day period in every instance in order to build-in adequate time to consider possible appeals.

The Minnesota Supreme Court recently issued another 60-day rule decision that held that an application to the Minneapolis Heritage Preservation Commission for a certificate of appropriateness was a "written request related to zoning," and therefore was subject to the automatic approval provision of the 60-day rule. *500, LLC v. City of Minneapolis*, 837 N.W. 2d 287 (Minn. 2013). This opinion creates ambiguity and uncertainty about what permit applications are subject to the law.

While the Legislature has clarified some aspects of this law, additional modifications are necessary to assist cities in providing accurate and timely responses to applicants and to allow adequate time for public input. Furthermore, as city staff and financial resources are increasingly limited, flexibility in the length of approval timeline requirements may be needed at the local level.

Response: **The Legislature should repeal or amend Minn. Stat. § 15.99. If repeal is unlikely, amendments should:**

a) **Increase the initial time limit to 90 days or have the language in Minn. Stat. § 15.99 apply as the default requirement only in cases where permitting bodies have not established an independent approval timeline;**
b) **Clarify that approval does not abrogate the need for approvals under other applicable federal, state or local requirements;**
c) **Provide appeal rights to adjacent property owners;**
d) **Clarify that, if requests are to be decided by a board, commission or other agent of a governmental agency, and the decision of the board, commission or other agent is adopted subject to appeal to the governing body of the agency, then the agency may extend the 60-day time limit to resolve the appeal; and**
e) **More clearly define that the phrase "related to zoning" refers to a traditional land use decision such as rezoning, conditional use permits, and variances.**

LE-6. Maintenance of Retaining Walls Adjacent to Public Rights of Way

Issue: The Minnesota Constitution grants cities the power to "levy and collect assessments for local improvements upon property benefited hereby." Retaining walls are one of the many improvements that a city is authorized to make on behalf of its citizens, and Minnesota's special assessment law, Minn. Stat. ch. 429, authorizes cities to charge special assessments on properties that are benefitted by an improvement.

The Minnesota Court of Appeals held that the city of Minneapolis had a nondelegable duty of lateral support to a property owner with a retaining wall abutting a city sidewalk. *Howell v. City of Minneapolis*, 2013 WL 1707759 (April 22, 2013). A

subsequent jury found that the city created the need for lateral support when it built the street and sidewalk adjacent to the property, making the city responsible for the maintenance the retaining wall, despite the fact that the property is clearly benefitted by the retaining wall.

The special assessment statute anticipates the need for cities to create retaining walls when making public improvements, and this holding could create significant costs for cities forced to repair and maintain retaining walls that benefit a single property. A choice by a developer or previous property owner to build a retaining wall to improve the value or usefulness of property may appear to be necessary today, but determining who first created the need for lateral support in the past can involve costly and time-consuming historical research that may not reveal a clear answer.

Response: **The Legislature should amend the special assessment statute so that retaining walls needed to facilitate public improvements are treated the same as other local improvements. In cases where retaining walls located along public rights of way or within drainage and utility easements separate public improvements from adjacent properties, the Legislature should establish a rebuttable presumption that the need for lateral support was created by the property owner.**

LE-7. Development Disputes

Issue: State law is clear that fees collected under Minn. Stat. ch. 462 are eligible for judicial review in the event of dispute. The Legislature recently limited the timeframe during which an aggrieved party may challenge planning and zoning fees to 60 days after approval of an application. However, the law is not clear about what notice requirements to the municipality are necessary, relative to the timing for a person aggrieved by an ordinance or decision under the municipal planning act to seek review.

Response: **The Legislature should amend Minn. Stat. § 462.361 to establish a 60-day time limitation in which an aggrieved person may bring an action against the municipality.**

LE-8. Foreclosure and Neighborhood Stabilization

Issue: Cities dedicate scarce resources to address public safety and maintenance challenges associated with foreclosed, vacant, and under-maintained homes. Left unaddressed, these properties destabilize neighborhoods, depress neighborhood property values, and potential increase the costs of municipal services. Cities' revenue also continue to decline due to delinquent utility payments and property tax payments, as well as added costs for nuisance abatements. Although the number of those mortgage foreclosures has stabilized somewhat since the peak of the recession in 2008, issues surrounding community recovery are still ongoing.

State and local governments can play an important role in spurring reinvestment in struggling neighborhoods, but without additional resources to address the variety and costly impacts of foreclosures and vacant properties, cities cannot maintain or increase those activities to meet local needs. The federal government has provided funds for neighborhood stabilization, but such funds are limited in eligible uses and scope, and they are only available to a limited number of cities.

Contracts for deed have been used to successfully buy and sell thousands of homes around Minnesota. However, some property owners use contracts for deed as an

alternative to a traditional lease, even though the purchaser has no intention of buying the home. Some communities have encountered a situation where a property owner is buying many homes in a community, then selling them on contract for deed. This can allow a person to essentially act as a landlord while evading a city's rental inspection and rental licensing process, while the buyers lose the traditional legal rights and protections as tenants. Many view it as a way to rent the property and may not be aware of it being a contract for deed.

Numerous problems arise for cities and neighborhoods when property owners are acting essentially as renters. It is difficult to determine who is responsible for maintaining the property or for paying utility bills and property taxes, and cities may not be able to inspect substandard properties if they are not subject to a lease agreement. In some situations, property owners may wish to have a renter be the responsible party for utility bills and utilize contract for deed arrangements to have the person living on the property be the responsible party. The property may also not be recorded at the county for homesteading purposes if the buyer is not aware of the formal change in ownership that results from a contract for deed.

In recent years, private equity companies have begun purchasing large numbers of single-family homes to convert to residential rental uses. The impacts of large a number of acquisitions by private equity companies on cities, housing stock, and the rental and home ownership market are not yet fully understood by local, state, and federal units of government. Possible issues that may need further exploration include proposed disposition strategies for such a large number of properties and how that may affect the local housing market.

Response: **The Legislature should:**

a) Secure increased state and federal resources and provide financing tools to help cover city costs associated with foreclosed and /or vacant properties, community revitalization strategies, and community investment, including revenue sources for programs that support foreclosure mitigation, homeownership counseling, and expanded homeownership opportunities and are sustainable.

b) Allow cities to take actions necessary to protect foreclosed and/or vacant homes from damage and to help preserve property values in neighborhoods where concentrations of such conditions are present, including an expedited process to address nuisance properties.

c) Reexamine the Contract for Deed statutes to determine whether additional protections are necessary to prevent property owners from evading responsibilities of a landlord, and provide local jurisdictions resources to allow for education of future buyers and sellers in contract for deed arrangements.

d) Support local authority for cities to collect all delinquent taxes, utility bills, liens, and assessments on foreclosed, vacant, boarded and/or tax forfeited properties.

e) Improve notification to cities, and consistency in the information available to cities, when a property is in the foreclosure process and vacated.

f) Support coordinated responses to prevent foreclosures, activate and guide private investment and home purchases, and support distressed neighborhoods.

g) Study and monitor the impacts on the housing market of single-family home

acquisition by private equity companies.

h) **Re-enact a program similar to "This Old House" to allow owners of qualifying single-family homes or multi-unit rental properties to defer the increase in tax capacity from repairs or improvements to their homestead property as an incentive for cities to maintain housing stock, including, but not limited to re-occupying and homesteading foreclosed and vacant homes. In order to provide potential opportunities in more communities, the program's age limit qualifications for a homestead property should be updated to include properties that are at least 30 years old.**

i) **Support programs that provide resources to cities for rehabilitation or new construction of single-family homes, such as the Community Impact Fund and the Community Fix Up Program currently administered through MN Housing Finance Agency (MHFA).**

LE-9. Resources for Affordable Housing

Issue: Cities, along with local housing officials, are concerned about the need for proactive commitment at the state level to aid cities to meet demand for affordable housing that is sensitive to local conditions, emerging trends, and changing demographics. This includes meeting the needs of an aging population and ensuring a wide range of lifecycle housing options that allow seniors of all incomes to stay in their community, addressing racial disparity gaps in housing, and responding to emerging trends, such as the need to preserve naturally occurring (unsubsidized) affordable housing. The League also recognizes that federal, state and local governments all have a role to play in meeting affordable housing needs, overcoming barriers to housing stability such as high market prices, eviction, and foreclosure, and responding to problems caused by vacant homes and the increase in rental properties that are the result of foreclosure. In 2017, the Minnesota Legislature passed legislation to provide local governments with the ability to establish a local affordable housing trust fund as a tool to help meet affordable housing needs.

Since the Fair Housing Act of 1968, local government has been obligated to promote and reduce barriers to fair housing and equal opportunity. Households with Section 8 housing choice vouchers face many barriers to securing housing in the private rental market, especially when rental vacancy rates are low. Currently rental vacancy rates are at a historic low in much of the state. As a result, many families and individuals may be unable to use their Section 8 housing choice vouchers and thus unable to secure safe, decent and affordable housing.

In December of 2017, Governor Mark Dayton announced the establishment of a Task Force on Housing to study the housing system throughout the state and craft recommendations to increase access to safe and affordable rental housing, create more pathways to homeownership, and improve housing stability and opportunity. In August of 2018, the recommendations of the Task Force were released, including 30 specific recommendations to help achieve six goals, including: commit to homes as a priority; preserve the homes we have; build more homes; increase home stability; link homes and services; and support and strengthen homeownership.

Response: **The Legislature should:**

a) **Support the affordable housing priorities of the Minnesota Housing Finance Agency (MHFA), which include making resources and methods available to maintain and improve existing affordable homes, especially housing stock that is aging such as naturally occurring (unsubsidized) affordable housing.**
b) **Provide stable and long term funding, including but not limited to dedicated funding sources, for Minnesota Housing and other affordable housing programs, including those that allow flexibility for cities to create partnerships and leverage resources with private and public entities, such as: capital investment funding for affordable and public housing, funding for supportive services and programs that address homelessness and reduce barriers to stable housing and homeownership, a tax credit contribution fund or a state low-income housing tax credit to help rebuild the state's partnership with local governments in the development of homeownership, and multi-family rental assistance and housing renovation programs.**
c) **Consider establishing a program to address immediate needs throughout the year to provide a match for new or existing city-supported affordable housing projects. This could include matching funds, issued on a timeline that is consistent with local budgeting processes, for local revenues allocated to a local affordable housing trust fund.**
d) **Substantially increase long-term funding for the Economic Development & Challenge Fund to leverage local private and public resources to develop workforce rental and single-family homes.**
e) **Support legislation to provide sales, use, and transaction tax exemptions or reductions for development and production of affordable housing and use state bond proceeds for land banking and trusts as well as rehabilitation and construction of affordable housing.**
f) **Provide funding and financing tools to cities to create affordable senior housing for our aging population.**
g) **Provide funding and financing tools to cities to create affordable housing and prevent foreclosure for veterans.**
h) **Support for policy, programs and funding to reduce the racial gap in homeownership rates, such as targeted homeownership capacity building and homebuyer assistance.**
i) **Support resources to assist communities to reduce barriers to and promote fair housing and equal opportunity.**
j) **Support housing stability for renters through policies that mitigate the impact of or reduce evictions filed and provide additional funding for the Section 8 housing choice voucher or other rental assistance programs and financial, tax, and/or other incentives for rental property owners to participate in these programs.**
k) **Support the goals of the Governor's Housing Task Force, and, to the extent that local governments are impacted by legislation which moves specific Task Force recommendations forward, the legislature should ensure that cities have a seat at the table.**

LE-10. Energy Efficiency Improvement Requirements for Housing

Issue: Rising energy costs have brought attention to the poor energy efficiency of

many private residences and multi-family properties, especially in older housing stock. The affordability of housing could be severely impacted by continued increases in home energy costs. Improvements in the energy efficiency of housing would improve the affordability of local housing options and would help achieve state energy demand and greenhouse gas emission reduction goals. The challenge is how best to achieve that result.

Legislative discussions have suggested that minimum energy efficiency improvements could be added as point of sale requirements, including energy use disclosure and basic renovations such as improved attic insulation levels, window caulking and other air sealing, or improved light fixtures.

While the goals of such a program are laudable, there are a number of concerns for how this would actually be accomplished in individual cities. Most cities do not, for example, have point of sale inspections. There will also be cases where the building could be structurally unable to meet high attic insulation requirements, such as with manufactured housing or with older houses with very little attic space. There are also concerns that the cost of meeting these energy requirements could result in homeowners being reluctant to sell their houses because of the expense of the improvements that would be required to meet new standards or property owners passing on the cost of upgrades to tenants.

Increased exposure to educational information, such as increased access to energy audits and more familiarity with and access to programs that finance energy efficiency projects could increase adoption of energy efficiency improvements. Electric utilities provide successful, cost-effective energy efficiency programs, have a customer relationship with homeowners, a regulatory requirement to meet energy demand reduction goals through conservation spending, and access to technical expertise that can take into account variations in building age and construction. Cities could, however, play a strong role in increasing public exposure to approved educational materials and providing incentives through the use of other local financing support options for property owners, such as grants, loans, a Property Assessed Clean Energy (P.A.C.E.) program, and other financing tools.

Response: **The League of Minnesota Cities agrees that there is a need to improve the energy efficiency of residential building stock to reduce energy consumption and improve the affordability and livability of housing. The state should focus its efforts on improving educational programs and on improving the use of the existing statewide Conservation Improvement Program (CIP) and similar programs, and provide property owners with technical and financial support for weatherization and energy efficiency improvements. Further, the state should work to make residential Property Assessed Clean Energy (P.A.C.E.) programs viable for local governments.**

Cities should use their communication tools, such as newsletters, web sites, and staff communications to promote these efforts and to help link property owners to educational materials and program resources. Additionally, cities could be incentivized to adopt strategies to disclose energy usage data for building owners to identify options for cost-efficient energy improvements.

LE-11. In-Home Day Care Facilities

Issue: There are restrictions on the ability of a city to regulate licensed day care facilities. Minn. Stat. § 462.357, subd. 7, states that certain licensed residential facilities and day care facilities must be considered a permitted single-family use for zoning purposes. The restriction is designed to protect "in-home" daycare facilities, but the law applies even if the facility is not the primary residence of the day care provider. This creates a loophole for providers to use a single-family home as a commercial daycare facility, which might not otherwise be allowable under a city zoning ordinance.

Response: **The Legislature should amend Minn. Stat. § 462.357, subd. 7, to clarify that a licensed day care facility serving 12 or fewer persons is considered a permitted single-family use only if the license holder owns or rents and resides in the home.**

LE-12. Residential Programs

Issue: Minnesota's deinstitutionalization policy seeks to ensure that all people can live in housing that maximizes community integration. Minn. Stat. § 462.357, subd. 6a. states that "persons with disabilities should not be excluded by municipal zoning ordinance or other land use regulations from the benefits of normal residential surroundings." Minnesota cities support inclusion of people with and without disabilities in their communities, but these policies are best implemented with minimal encroachments on municipal zoning authority and positive working relationships between cities, care providers, and the state.

On one hand, treating persons with disabilities differently generally raises questionable issues of disparate treatment with the Federal Fair Housing Act. On the other hand, without some regulation, cities are powerless to protect individuals with disabilities from a clustering of residential programs within one neighborhood. As the Department of Justice has stated, while density regulations are generally suspect, "if a neighborhood came to be composed largely of group homes, that could adversely affect individuals with disabilities and would be inconsistent with the objective of integrating persons with disabilities into the community." (*Joint Statement of the Department of Justice and the Department of Housing and Urban Development*.)

To this end, and in upholding a state and local dispersal requirement, the Eighth Circuit Court of Appeals stated that the requirement was designed to ensure that people with disabilities "needing residential treatment will not be forced into enclaves of treatment facilities that would replicate and thus perpetuate the isolation resulting from institutionalization." *Familystyle of St. Paul, Inc. v. St. Paul*, 923 F.2d 91, 95 (8th Cir. 1991).

City authority to regulate the locations of residential programs is limited by state statute and the federal Fair Housing Act (FHA), although Minn. Stat. § 245A.11, subd. 4, prohibits the Commissioner of Human Services from granting an initial license to a residential program of six or fewer people within 1,320 feet of an existing residential program in cities of the first class.

In 2015, Minn. Stat. § 245A.11, subd. 4, was amended to clarify that the Commissioner of Human Services is required to approve licenses for "community residential settings" within 1,320 feet of existing residential programs. A "community residential setting" is commonly known as adult foster care. While this was the original intent of the legislature, statutory terms changed over

the years; this amendment was to make various statutory references consistent.

Sufficient funding and oversight is needed to ensure that residents living in residential programs have appropriate care and supervision, and that neighborhoods and residents of residential programs are not negatively impacted by high concentrations of these types of programs. As it stands now, there is nothing preventing clustering of residential programs in most cities in the state. Cities want to be part of the solution, and more than anything cities desire to be, and should be, partners in serving the policies of deinstitutionalization. Cities have an interest in, and are in the best position, to preserve a balance in residential neighborhoods between residential programs and all other uses. Because Minnesota cities are committed to inclusion of all individuals, it is in the best interest of the state, care providers, and those individuals served, that all parties include cities as partners before opening a residential program to best plan for community integration.

Response: **Cities should maintain the statutory authority to require agencies, as well as licensed and registered providers that operate residential programs, to notify the city before properties are operated. Cities should be provided with the necessary contact information after a residential program is licensed or registered. Providers applying to operate residential programs should be required to contact the city to be informed of applicable local regulations. Finally, licensing or registering authorities must be responsible for removing any residents incapable of living in such an environment, particularly if they become a danger to themselves or others.**

The Legislature should amend Minn. Stat. § 245A.11, subd. 4, to allow for appropriate non-concentration standards for all types of cities to prevent clustering.

LE-13. Inclusionary Housing

Issue: Provisions in current state statute (Minn. Stat. § 462.358, subd. 11) allowing cities to enter into development agreements for the inclusion of a portion of the units in the development to be affordable for low- or moderate-income families have been a source of conflict between cities and housing developers.

Cities are concerned builders that view this statute as a restriction on local authority to adopt policies that promote availability of housing affordable to those who are unable to purchase or rent housing at price points that the market alone provides.

Response: **The Legislature should:**

a) **Strengthen and clarify cities' authority to carry out policies that offer developers a range of incentives in return for including a designated number of affordable units in their projects.**
b) **Identify strategies to ensure long-term affordability of rental and owner-occupied housing produced as a result of such policies and practices.**
c) **Focus state housing policy to support for local assessment of housing needs and direct additional state resources and the full exercise of local authority to increase development of affordable rental units and access to entry-level, owner-occupied housing.**
d) **Support voluntary measures to encourage cities to adopt and carry out land-use plans, activities, and subdivision regulations aimed at providing for construction and marketing of housing where a portion**

of all new units are affordable to lower-income households.

LE-14. Community Land Trusts

Issue: The increasing price of land available for housing development, particularly for retaining affordability of housing for lower-income households, is a concern throughout the state. Creating more permanently affordable, owner-occupied housing depends heavily on maximizing the cost-effectiveness of taxpayer investments. The Legislature has previously appropriated funding and granted the Minnesota Housing Finance Agency authority to assist cities with funding community land trusts (CLTs) for affordable housing.

Response: **The Legislature should support continuation of the land trust capacity-building program and provide capital start-up funds so community land trusts can continue to offer gap financing, interest rate write-downs, predevelopment financing, and financial underwriting. The Legislature should also support efforts by the Minnesota Community Land Trust Coalition to develop property tax valuation to lower property taxes for sales-price-restricted properties enrolled in CLT programs.**

LE-15. Telecommunications and Information Technology

Issue: Telecommunications and information technology is essential public infrastructure for the efficient, equitable, and affordable delivery of local government services to residents and businesses. Telecommunications includes voice, video, data, and services delivered over cable, telephone, fiber-optic, wireless, and all other platforms.

Response: **The League of Minnesota Cities supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving local regulatory authority. Regulations and oversight of telecommunications services are important prerogatives for local government to advance and balance community interests, including ensuring public safety, maintaining high quality basic services that meet local needs, spurring economic development, and providing affordable rates to all consumers. Policies should not diminish local authority to manage public rights-of-way, to zone, to collect reimbursement and reasonable compensation for the use of public assets, or to work cooperatively with the private sector. The League opposes the adoption of state and federal policies that restrict cities' ability to finance, construct, and operate telecommunications networks.**

LE-16. Broadband

Issue: High-speed Internet is essential infrastructure needed by cities to compete in a global economy. Yet many communities do not have access to broadband at affordable prices. High fixed costs, low density, and short-term return-on-investment thresholds for private sector providers contribute to the lack of broadband across the state. Investing in universal broadband access has substantial local and regional economic benefits for communities of all sizes. Cities and other local units of government are facilitating the deployment of broadband services to increase connectivity, reliability, availability, and affordability for residents and businesses through a variety of models, including municipal broadband and public-private partnerships. However, attempts have been made to restrict cities from providing

telecommunications services, particularly in unserved or underserved areas. Recent court cases have overturned interpretation by the Federal Communications Commission (FCC) that states may not limit the extension of municipal broadband services from one city to another.

Due to the high costs of broadband infrastructure, the state has expanded its role to identify and formulate tools to expand broadband access. The Office of Broadband Development within the Department of Employment and Economic Development (DEED) created in 2013 formally established a partnership between the state and local communities to deploy high-speed Internet in unserved and underserved areas. The Office supports broadband expansion through broadband mapping and managing the state's broadband grant program. Additional state action occurred during the 2016 legislative session when the legislature reestablished state speed and adoption goals under Minn. Stat. § 237.012. In addition to the state's focus on extending broadband to unserved areas, Minnesota must also be on the cutting edge for next-generation broadband investments.

Response: **To promote economic development and achieve state broadband goals, the Legislature, Governor's office, and state agencies should:**

a) **Identify and implement actions for the state to reach and maintain a position in the top five states for broadband speed that is universally accessible to residents and businesses;**
b) **Make significant investments to the Border-to-Border Broadband Grant Program and continue to encourage public/private sector collaboration;**
c) **Support measures to authorize and encourage cities and other local units of government to play a direct role in providing broadband services;**
d) **Remove barriers to the exercise of local authority to provide such services, including repeal of Minn. Stat. § 237.19, that requires a supermajority voter approval for the provision of local phone service by a local unit of government;**
e) **Offer incentives to private sector service providers to respond to local or regional needs and to collaborate with cities and other public entities to deploy broadband infrastructure capable of delivering sufficient bandwidth and capacity to meet immediate and future local needs;**
f) **Adopt policies which seek to position Minnesota as a state of choice for testing next-generation broadband technologies;**
g) **Affirm that cities have the authority to partner with private entities to finance broadband infrastructure using city bonding authority;**
h) **Remove barriers, restrict anti-competitive practices, and prevent predatory action that prevent or impede cities, municipal utilities, schools, libraries, and other public sector entities from collaborating and deploying broadband infrastructure and services at the local and regional level;**
i) **Continuously update and verify comprehensive statewide street-level mapping of broadband services to identify underserved areas and connectivity issues; and**
j) **Recognize the crucial role of local government in the work of the Governor's Broadband Task Force and fund the Office of Broadband Development to help achieve significantly higher broadband speeds and to ensure that robust and**

affordable Internet connectivity is widely available.

On the federal level, the League urges Congress to adopt laws restoring the ability of municipalities to extend beyond their borders to serve unserved and underserved areas.

LE-17. Competitive Cable Franchising Authority

Issue: Despite claims made by some actors in the cable industry, studies and evidence to date do not support that state franchising is the solution for competition, lower consumer rates, and improved customer service. Unlike the exercise of local franchising authority, state franchising models frequently make no provision for staffing at the state level or for effective resolution of consumer complaints.

The transmission of video signals, regardless of how they are transported, remains subject to local franchising authority. Maintaining local franchising most effectively creates and preserves agreements that guarantee broad access to services throughout the community, ensuring there is no digital divide for access to available additional services such as access to IP voice and high-speed Internet via infrastructure that also delivers video programming services.

Response: **State policy should maintain local cable franchise authority and oversight of the rights-of-way, as well as ensure franchise agreements reflect new technology, and are reasonably tailored to the technical and operational differences among providers and communities. Independent studies clearly demonstrate that statewide franchising does not increase direct competition to incumbent cable franchisees. In Minnesota, there are markets throughout the state with two franchised cable service providers, which is further proof that state cable franchising is neither necessary nor warranted in Minnesota.**

The Legislature, Federal Communications Commission (FCC), and Congress should also continue to recognize, support and maintain the exercise of local franchising authority to encourage increased competition between incumbent cable system operators and new wireline competitive video service providers including:

a) **Maintaining provisions in Minn. Stat. ch. 238 that establish and uphold local franchising authority, including the authority to receive a gross revenues based franchise fee;**
b) **Refraining from adopting any FCC rule changes that would restrict existing local authority to charge for and control access to public rights-of-way by all video and cable service providers;**
c) **Clarifying local authority to charge fees on providers to ensure the provision of public, educational, and governmental (PEG) programming, to require the provision of video channels and video streaming for PEG programming with video and audio quality equivalent to that of the local broadcast stations, and ensuring programming is accessible and searchable by all residents of the local authority through detailed Electronic Programming Guide listings that are equivalent to that of local broadcast stations;**
d) **Providing for continued local government access to capacity on institutional networks (I-Nets) provided by local cable system operators for public safety communications, libraries, schools, and other public institutions to use**

state-of-the-art network applications; and

e) Strengthening local authority to enforce customer service standards and transparency in pricing.

LE-18. Right-of-Way Management

Issue: Cities hold local rights-of-way in trust for the public as an increasingly scarce and valuable asset. As demand increases for use of rights-of-way for underground wired and overhead wireless facilities and sites for wireless communications, cities must coordinate the use of this resource among competing uses and to manage the use of PROWs for delivery of essential municipal utility services. Local management responsibilities vary and are site specific, underscoring the necessity for maintaining local authority.

Minnesota's Telecommunications Right-of-Way User Law was amended during the 2017 Session with legislation creating a separate permitting system for placement of small wireless facilities on city-owned structures in the public right-of-way. The new law clarified that wireless providers are telecommunications right-of-way users and maintained cities' right-of-way management authority, but limitations were imposed on cities' compensation through rent and timelines for processing small wireless facilities permits.

Response: **Minn. Stat. §§ 237.162-.163 worked well for many years, but Minnesota was a part of a nationwide effort by wireless providers to pass laws providing them with easier access to public rights-of-way and city-owned infrastructure. While Minnesota's law maintains more local control than those passed in many other states, the League of Minnesota Cities opposes efforts to further restrict local government authority over the public right-of-way. Furthermore, the Federal Communications Commission is undergoing review of Telecommunications Act rules and policies related to local government regulatory authority. State and federal policymakers and regulators should:**

a) Uphold local authority to manage and protect public rights-of-way, including reasonable zoning and subdivision regulation and the exercise of local police powers;

b) Recognize that cities have a paramount role in developing, locating, siting, and enforcing utility construction and safety standards;

c) Support local authority to require reimbursement and compensation from service providers for managing use of public rights-of-way;

d) Maintain city authority to franchise gas, electric, cable, telecommunications and broadband services, open video systems and all other wireline programming platforms and services and to collect franchise fees and alternative revenue streams to support maintenance and management of the traveled portion of the PROW and other public services of importance to communities;

e) Encourage a collaborative process with stakeholders, including cities, to determine any revised standards if needed;

f) Recognize that as rights-of-way become more crowded, the costs of disrupting critical infrastructure become evident and the exercise of local authority to manage competing demands and ensure public safety in the PROWs becomes increasingly important;

g) Ensure the removal of abandoned equipment and accompanying support

structures by the service providers from the public right-of-way;

h) **Maintain the courts as the primary forum for resolving disputes over the exercise of such authority; and**

i) **Maintain existing local authority to review and approve or deny plans for installation or relocation of additional wires or cables on in-place utility poles. In the alternative, cities should have broader authority to require the underground placement of new and/or existing services at the cost of the utility or telecommunications provider.**

LE-19. Wireless Infrastructure and Equipment Siting

Issue: Demand for wireless communication service has increased requests by private and public sector providers to site additional towers, antennas, small cells and other facilities in cities. It is anticipated that applications to install small cell wireless facilities and distributed antenna systems (DAS) will continue to grow as technology evolves over time. Despite Minnesota's new law creating a special process for the siting of small wireless facilities, maintaining cities' local zoning authority and police power to manage and coordinate the siting of these facilities continue is necessary and appropriate.

Response: **Cities must continue to exercise full authority to consider public health, safety, and welfare concerns in responding to requests to site, upgrade or alter wireless facilities. The Legislature should not place further restrictions on city authority to manage the siting of wireless facilities in the public right-of-way nor enact compensation restrictions that would result in local government subsidization of wireless providers. Furthermore, cities must have recourse to require removal by the provider of equipment deemed abandoned.**

LE-20. County Economic Development Authorities

Issue: The 2005 Legislature authorized all counties outside the metropolitan area to establish county economic development authorities (EDAs). Minn. Stat. § 469.1082 provides specificity on certain process and limitations issues, including the ability of cities to prohibit the county EDA from operating within the city as well as within an agreed-upon urban service area or within a distance approved during the formation of the county EDA. County EDA activity in areas surrounding cities will directly impact the adjacent city in terms of service provision and taxes.

Response: **The Legislature should require city approval for proposed county EDA activities within two miles of a city.**

LE-21. Local Appropriations to Economic Development Organizations

Issue: Cities and towns are allowed to appropriate up to $50,000 per year from general fund revenue to an incorporated development society or organization for "promoting, advertising, improving, or developing the economic and agricultural resources" of the city or town. The $50,000 cap has been in place since 1989 and places unnecessary restrictions on a city's ability to work with non-profit development corporations. Local governments should have the flexibility to work with outside organizations if local elected officials believe it is in the best interest of their communities to do so. Such appropriations are subject to the same budgetary oversight as other government expenditures, and local

elected officials are ultimately responsible to the voters for how local tax dollars are spent.

Response: **The Legislature should amend Minn. Stat. § 469.191 to eliminate or increase the cap on appropriations to incorporated development societies or organizations.**

LE-22. Workforce Readiness

Issue: It is critical for the future of our economy to prepare for new demographic trends. While population rates among communities of color are projected to increase, the unemployment rate for communities of color exceed the unemployment rate for white Minnesotans. For example, data from the Bureau of Labor Statistics (BLS) indicate that black unemployment rates are consistently two to three times higher than the unemployment rates of white Minnesotans and studies indicate that hiring bias is a substantial factor for this disparity in unemployment rates. In addition, while early work experience is a leading predictor of future success in a workplace, recent statistics from BLS show that the youth unemployment rate for 16-19 year olds is three times that of the unemployment rate for the state as a whole.

Incumbent worker training and education must be an important component of Minnesota's efforts to improve workforce readiness. By making firms and employees more competitive, incumbent worker training can increase wages, increase employment opportunities, fill skilled worker gaps, and keep jobs and employers in their communities. The Minnesota Job Skills Partnership is one proven tool that provides training to thousands of incumbent workers each year.

Response: **The Legislature should:**

a) **Fully fund the Minnesota Job Skills Partnership and other workforce training programs administered by the Department of Employment and Economic Development, the Department of Human Services, and the various education agencies;**
b) **Provide additional flexible funding to local workforce councils, including governments and educational facilities, for the purpose of upgrading the skills and productivity of the workforce, and pursue additional creative programming and funding to prepare and place underemployed and unemployed Minnesotans, as well as address the issue of those phasing out of the workplace and retiring;**
c) **Provide additional funding for programs specifically designed to address youth employment such as career and workforce readiness programs, and employment disparities; and**
d) **Continue to support cities that provide workforce programs that are coordinated with and complement state and regional efforts by seeking municipal approval before making any changes to those service areas.**

LE-23. Business Development Programs

Issue: Programs such as the Minnesota Investment Fund (MIF), the Job Creation Fund (JCF), the Redevelopment Program, and contaminated site clean-up grants provide funding opportunities for communities and businesses to develop their local and regional economies. These well-utilized programs create infrastructure, revitalize property, and help businesses generate and expand jobs. Cities are key facilitators in the implementation of

economic development strategies through land use and other policies.

Response: **The League of Minnesota Cities supports continued and sustainable funding for the Minnesota Investment Fund and the Job Creation Fund to assist local communities and businesses in creating, growing, and retaining jobs.**

DEED should solicit input from cities about how best to implement the Fund and make adjustments to the administration of the program as necessary. The League supports Department of Employment and Economic Development (DEED) studying and making recommendations on methods to improve the geographic balance of recipients, perhaps by altering the required number of jobs created or developing other programmatic changes that allow all regions of the state to better prosper.

LE-24. Land Recycling and Redevelopment

Issue: Communities across Minnesota are faced with expensive barriers to re-using property. These roadblocks include deteriorating, obsolete, and vacant structures, and contaminated land.

Larger scale redevelopment projects often require the purchase and assembly of multiple, smaller parcels of land that are not suitable for development on their own. Cities and development authorities may need to purchase land over a period of years and hold them for later development, reducing the effectiveness of traditional financing tools that require immediate development.

Such barriers pose significant problems for cities seeking to re-use existing infrastructure, maintain and improve property tax base, provide jobs and housing opportunities, and preserve historic structures. Land recycling activities are particularly costly because significant remediation must occur before private-sector interest can be generated. Exacerbating this situation, the land recycling programs administered by the Department of Employment and Economic Development (DEED) and the Metropolitan Council programs continue to be underfunded.

Response: **In recognition of the unique needs of land recycling projects statewide, the Legislature should increase funding for the statewide redevelopment account. The League of Minnesota Cities would also support the creation of a land assembly grant or loan program to assist cities and economic development authorities assemble small parcels for redevelopment. The League supports competitive programs administered by DEED with both bonding and general fund appropriations that distribute the funds equitably between greater Minnesota and the metro area. The Legislature should continue its support and increase funding levels for state and regional programs to assist in contamination cleanup and brownfields remediation efforts.**

The State should recognize that the rehabilitation of land due to obsolescence or incompatible land uses is a component of redevelopment. The Legislature should amend the definition of redevelopment district in Minn. Stat. 469.174, subd. 10, to include the obsolescence and incompatible land uses included in a renewal and renovation district (Minn. Stat. § 469.174, subd. 10a), thereby providing cities with more flexible tools to address land recycling and redevelopment.

The Legislature should also revive a program similar to "This Old Shop" (Minn. Stat. § 273.11, subd. 19), which would allow cities greater flexibility in targeting commercial development and redevelopment. The Legislature should consider enacting authority that would provide a tax deferral on improvements to commercial buildings, including those located in designated rehabilitation or historic preservation districts. The program's age limit qualifications under Minn. Stat 273.11, subd. 19, should be modified to include properties that are at least 30 years old.

LE-25. Development Authority Levy Limits

Issue: Under Minn. Stat. § 469.107, § 469.033, and § 469.053, Economic Development Authorities (EDAs), Housing and Redevelopment Authorities (HRAs) and port authority levies for economic development activities are capped. These limits can hinder the planning of future development.

Response: **The Legislature should repeal levy limits or increase the levying authority for EDA, HRA, and port authority activities in Minn. Stat. ch. 469.**

LE-26. Tax Increment Financing (TIF)

Issue: TIF is the most important tool available to fund community development and redevelopment efforts. Over time, the TIF law has become increasingly complex as the Legislature seeks to provide cities with the resources to grow the state's economy while maintaining limits on the use of property taxes. Cities need greater flexibility to use TIF for community and economic development that support a city's residents and businesses. Further restrictions of TIF would render the tool less effective and will hinder local efforts to support job creation, housing, redevelopment and remediation.

One component of the redevelopment TIF law (Minn. Stat. 469.174, subd. 10) requires that more than 50 percent of the buildings in a proposed redevelopment district be deemed "structurally substandard to a degree requiring substantial renovation or clearance" before a district can be established. This makes small districts with two properties particularly difficult to establish.

Response: **The Legislature should not enact future TIF law restrictions, rather the Legislature should:**

a) **Amend Minn. Stat. § 469.1763, subd. 4, to clarify that tax increment pooling limitations are calculated on a cumulative basis.**
b) **Modify Minn. Stat. 469.174, subd. 10, to allow a redevelopment district to be established where only 50 percent of the buildings are required to be structurally substandard to a degree requiring substantial renovation or clearance.**
c) **Clarify that expenditures for the necessary maintenance of properties within TIF districts are an allowable use of tax increment under Minn. Stat. § 469.176, subd. 4;**
d) **Allow term extensions for redevelopment districts which are taking longer to develop;**
e) **Amend Minn. Stat. § 469.1763, subd. 3, to eliminate the "Five-year Rule" for districts that are taking longer to develop;**
f) **Amend Minn. Stat. § 469.174, subd. 25, to provide time limits on the "deemed increment" created by land**

sales, leases and loans, and allow authorities greater flexibility in the use of lease revenues to fund ongoing operations;

g) **Expand the use of TIF to assist in the development of technological infrastructure and products, biotechnology, research, multi-modal transportation and transit-oriented development, restoration of designated historic structures, non-retail commercial projects, and non-wetland areas where unstable/non-buildable soils exist;**
h) **Increase the ability of TIF to facilitate redevelopment and housing activities;**
i) **Modify the housing district income qualification level requirements to allow the levels to vary according to individual communities;**
j) **Encourage compact development and consider reauthorization of compact development TIF districts with modifications to increase their effectiveness;**
k) **Discourage any statutory mechanisms that directly or indirectly decrease the impact of city redevelopment and economic development projects;**
l) **Simplify the substandard building test to resolve ambiguities and reduce the continued threats of litigation;**
m) **Create an exception to the interfund loan resolution requirement in Minn. Stat. 469.178, subd. 7, to authorize the development authority to delegate to a staff person the ability to set the terms and conditions of an interfund loan.**
n) **Amend the definition of redevelopment district under the TIF Act to include the obsolescence and incompatible land uses included in a renewal and renovation district, thereby providing cities with more flexible tools to address land recycling and redevelopment.**

LE-27. Property Tax Abatement Authority

Issue: In an effort to increase the number of development tools available, the 1997 Legislature authorized local units of government to grant property tax abatements. Although tax increment financing (TIF) continues to be the primary financing mechanism for local development projects, tax abatements provide cities with an important, additional economic development tool. Recognizing the need for municipal development tools, the 2008 Legislature expanded the abatement authority by converting the limit on abatements from ten percent of the current tax levy to ten percent of net tax capacity. In order to provide maximum benefits and recognize local decision-making, tax abatements should have less restrictive funding caps, financing terms, and authorized uses.

The tax abatement law requires that a political subdivision may only approve an abatement after holding a public meeting with a minimum of 10 days published public notice. When more than one political subdivision abates property taxes for a development project, there must be separate notices and hearings for each subdivision. This requirement can be particularly burdensome for programs designed to develop multiple properties over an extended period of time. If one political subdivision could be designated as the lead entity for purposes of the notice and hearing requirements, such projects could be made more efficient without sacrificing public transparency.

Property tax abatements should not be considered a replacement for TIF.

Response: **In light of current economic conditions existing property tax**

abatement authority should be strengthened. The Legislature should:

a) **Expand the abatement authority to allow abatement revenues to be used for economic development activities such as workforce readiness and assistance programs, and technology infrastructure improvements;**
b) **Develop a state fund to facilitate state participation in abatement projects by allowing the state property tax to be abated;**
c) **Increase funding caps under Minn. Stat. § 469.1813, subd. 8 and duration limits under Minn. Stat. § 469.1813, subd. 6; and**
d) **Amend Minn. Stat. § 469.1813, subd. 5, to create a streamlined notice and hearing requirement for multi-jurisdictional tax abatement projects.**

LE-28. Opportunity Zones

Issue: The Opportunity Zones program is a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones as designated by the chief executives of every state and territory in the United States. The tax incentive is available for up to ten years.

As the chief executive of the state of Minnesota, Governor Mark Dayton designated 128 census tracts across the state as Opportunity Zones, but beyond the responsibility for this designation the state does not have an additional role in the implementation of the Act. As the United States Treasury Department is expected to release rules and regulations related to the implementation, there are many unknowns about the impact the Act will have on communities across the state. It is anticipated that the Act may be a useful tool in spurring development in low-income communities and could help with business development and jobs; there are also questions about what impact the Act will have on the residents that live and businesses that operate, in these communities today. For example, while development may have positive impacts such as increasing tax base or job opportunities, robust development could have unintended consequences such as displacement of current residents and businesses.

Response: **The League of Minnesota Cities urges the federal government to seek regular input from communities that are designated as Opportunity Zones regarding how the tool is being used, whether the tool is encouraging new development opportunities, and how community members who live in the Zones are impacted, such as through a local advisory board made up of residents, businesses, and other stakeholders located in the designated census tracts. The Federal Government should seek input from local communities throughout the implementation of the rules and regulations and consider necessary amendments and adjustments as needed in response to potential questions or concerns raised by the communities whose residents, workers, and businesses will be experiencing the changes that ensue in the Zones.**

The State of Minnesota should utilize community development resources to stimulate investment in Opportunity Zones and adopt policies that ensure that

local residents, workers and businesses benefit from the investments.

LE-29. Revisions to the OSA Audit Function

Issue: Pursuant to Minn. Stat. § 469.1771, the Office of the State Auditor (OSA) is responsible for tax increment financing (TIF) oversight. As part of its review of TIF districts, the OSA identifies alleged violations of the TIF laws and issues noncompliance notices to TIF authorities. In recent years, a number of cities have received letters of inquiry from the OSA that raise questions about practices long-accepted by the OSA or limit statutory definitions that have not been amended by the legislature for over a decade. The audit power in Minn. Stat. § 469.1771 is necessary to ensure that individual cities comply with the TIF statutes, but is not effective in clarifying the legislative intent of the TIF statutes.

In addition, the TIF statute requires that authorities respond to noncompliance notices within 60-days of receiving the notification. There is no deadline for the OSA to respond, and authorities often do not receive timely responses on the matter from the OSA. Government agencies typically have response-time deadlines, and it is appropriate for the OSA to respond by a time certain to provide finality to the audit process. Any final disposition notice must be clear about the final disposition of the matter.

Finally, the statutory audit enforcement process does not create an environment where these policy questions can be fairly and sufficiently resolved. County attorneys lack the resources to prioritize TIF disputes and lack the subject matter expertise needed to analyze the merits of the OSA's audit findings. This results in excessive deference granted to the OSA's original audit findings. Faced with the potential loss of increment, payment of attorney fees, and small likelihood of success on the merits, cities often acquiesce to the OSA to save time and money.

Response: **The League of Minnesota Cities believes there should be a more defined process to establish rules or guidelines for TIF authorities with adequate input from local government officials and public finance professionals prior to their adoption.**

In the event that the OSA determines to issue a final noncompliance notice to a TIF authority, the Legislature should require the OSA to issue the notice within 60 days of receiving the authority's response. Any final noncompliance notice should contain the OSA's final position on the matter, the date upon which it forwarded the matter to the county attorney, and the next steps that are required to be taken according to state law. Upon expiration of the 60-day period, the authority should be deemed to be in compliance with the TIF laws if no final noncompliance notice is received.

In order to ensure a fair process to resolve disputes over TIF findings of the OSA, the Legislature should consider whether the authority to resolve such disputes should be shifted from county attorneys to the Office of Administrative Hearings.

LE-30. OSA Time Limitations

Issue: The Office of the State Auditor (OSA) has the authority to issue noncompliance notices for every existing tax increment financing (TIF) district in the state for alleged violations of the TIF laws. This authority extends retroactively to the

inception of the district. Accordingly, TIF authorities can receive noncompliance notices for alleged violations that occurred 20 or more years ago. Often, staff and record-keeping procedures have changed, and TIF authorities find it difficult to reconstruct the past in order to identify and remedy these situations. Similarly, the OSA claims the authority, based on the state's records retention schedule, to audit TIF districts for up to 10 years after decertification, which requires cities to expend staff resources to maintain files and a working knowledge of old districts for an unreasonable period of time.

Response: **A reasonable timeframe within which alleged violations are identified should be established. The Legislature should reasonably restrict the OSA's ability to issue noncompliance notices to the six-year period prior to the notice's issuance date. The Legislature should also require the OSA to conduct any audits on decertified districts within one year of decertification.**

LE-31. Workforce Housing

Issue: Job creation is one of the fundamental goals of economic development. When employers create new jobs through expansion or relocation there must be sufficient housing in the host community for the new workers and their families to live. In rural communities, a lack of housing stock for new workers can prevent a planned expansion or relocation, hampering job growth and economic development. The economics of building a housing development in greater Minnesota communities makes private development difficult, and workers with higher paying jobs do not qualify for traditional affordable housing. This housing gap can bring development and job growth in a community to a halt.

In 2014, at the urging of cities through Minnesota, the Legislature created a workforce housing pilot program for three cities in Roseau and Pennington Counties. In 2015 the Legislature passed League-sponsored legislation that created the workforce housing development program and appropriated $4 million to the Department of Employment and Economic Development (DEED) to administer the program. Once grant awards from DEED were made, prevailing wage requirements, construction costs, and land prices have shown to lessen the effectiveness of creating more workforce housing units. It is important to ensure the appropriate resources and process exist for the Department of Labor and Industry (DLI) to determine representative and accurate prevailing wage amounts in different areas across the state.

The 2017 Legislature approved funding for the Workforce Housing Grant Program at $2 million each year. The program was moved from DEED to be administered by MN Housing Finance Agency (MHFA) in Minn. Stat. 469A.39 with a change in qualifications that gives preference to cities under 30,000 population (rather than 18,000 previously).

The 2017 Legislature also approved a new use of TIF authority for workforce housing (Minn. Stat. § 469.174-176). In addition to requirements under Minn. State. 469.175, subd. 3, county and school boards must approve the TIF plan before it is enacted and the authority sunsets in 2027. These additional requirements specific to workforce housing TIF districts put additional barriers on workforce housing development and does not fully recognize the role of cities as the typical lead government entity on housing projects. Minn. Stat. § 469.175, subd. 2, currently requires cities to provide the county auditor

and clerk of the school board with the proposed TIF plan and an estimate of the fiscal and economic implications of the proposed TIF district at least 30 days before the public hearing required by Minn. Stat. § 469.175, subd. 3. The county auditor and school board shall provide copies of these TIF plan materials to members of their boards. These current requirements provide sufficient notice to taxpayers and other government entities about proposed TIF districts.

Response: **The League of Minnesota Cities supports additional tools for local communities to develop workforce housing:**

a) **MHFA should solicit input from local communities to ensure that the goals of the Workforce Housing Grant program are met, and MHFA should award funds to eligible projects as quickly and efficiently as possible;**
b) **The Legislature should increase funding to the Housing and Job Growth Initiative to aid housing in support of job growth, and amend Minn. Stat. § 462A.33 to eliminate or increase the maximum income levels for participation in the program; and**
c) **The Minnesota Housing Finance Agency should make administrative changes to the Housing Challenge Grant program to streamline the application process, reduce the per-unit cost of constructing affordable housing, and increase the construction of affordable rental units at 80% of median income and owner-occupied units at 115% of median income, as currently allowed by state and federal law; and**
d) **The Legislature should pass legislation creating a workforce housing tax credit to spur development of workforce housing.**
e) **The Legislature should scale the workforce housing grant program to account for the additional cost associated with the prevailing wage requirements.**
f) **The Legislature should eliminate the provision in Minn. Stat. § 469.175, subd. 3, that requires the county board and school board to approve a workforce housing TIF plan before it is enacted and the Legislature should also eliminate the sunset of the workforce housing TIF authority.**

LE-32. Development Along Transit Corridors

Issue: While the establishment of transit lines and corridors provide the impetus for economic development, there are limits to existing development tools that hinder full development of transit corridors. For example, acquisition of land outside of the line but within the corridor can be difficult, and current tools are not well-suited for the creation of public spaces, enhancement of infrastructure, and investments such as parking ramps that are necessary components of a transit-oriented development plan.

In 2008 the Department of Employment and Economic Development (DEED) was authorized to establish Transit Improvement Areas, which should complement long-term transportation planning initiatives such as MAP-21 and Minnesota GO. Transit Improvement Areas include parcels of land that are located in part within one-half mile of a transit station. A transit station is defined as a physical structure or designated area which supports the interconnection of various transportation modes, including light rail, commuter rail and bus rapid transit, and which promotes and achieves the loading, discharging and transporting of people. The commissioner of DEED may designate a

Transit Improvement Area if it will increase the effectiveness of a mass transit project by incorporating one or more modes of public transportation with commercial and housing development, as well as providing a clean and pleasant place for pedestrian use. DEED has designated over 50 Transit Improvement Areas; all but two are located in the seven-county metropolitan area. Although the language passed and was signed into law by the governor (Minn. Stat. § 469.35), there was no funding put into place to implement the new program.

Response: **The League of Minnesota Cities urges the Legislature to increase the ability of traditional economic development tools, including tax increment financing, tax abatement, and special service districts, to address the needs of transit-oriented development. The League encourages the Legislature to appropriate bonding and general fund dollars for revolving loans and grants to fund the TIA program. Additionally, the Legislature should consider adding park and ride facilities to the list of qualifying transportation modes, as defined in Minn. Stat. § 469.351. Because the majority of the DEED-designated Transit Improvement Areas are currently located in the seven-county metropolitan area, increased funding for this program will not be balanced between greater Minnesota and the metro area. Additional funding for this program should not change the overall balance of state funding between greater Minnesota and the seven-county metropolitan area.**

LE-33. Public Infrastructure Utilities

Issue: Successful economic development efforts and community stability are dependent upon a city's ability to make infrastructure investments. Current infrastructure funding options available to cities are inadequate and unsustainable. Funding pressures have been exacerbated by levy limits, unallotment and reductions in the local government aid and market value homestead credit programs. The existing special assessment law, Minn. Stat. ch. 429, does not meet cities' financing needs because of the special benefit requirement. The law also requires a bond election unless a minimum of 20 percent of such a project can be specially assessed against affected properties due to the increase in fair market value or "benefit" from the project. In practice, however, proof of increased property value to this degree of benefit can rarely be proven from regular repair or replacement of existing infrastructure such as streets or sidewalks. Alternatives to the Minn. Stat. ch. 429 methods for financing infrastructure improvements are nearly nonexistent.

The Legislature has given cities the authority to operate utilities for waterworks, sanitary sewers, and storm sewers. The storm sewer authority, established in 1983, set the precedent for a workable process of charging a use fee on a utility bill for a city service infrastructure that is of value to everyone in a city. Similar to the storm sewer authority, a transportation or sidewalk utility would use technical, well-founded measurements and would equitably distribute the costs of local infrastructure services.

Response: **The Legislature should authorize cities to create, as a local option, additional utilities such as a transportation or sidewalk utility, that ensure funding for the maintenance of these public amenities. Additionally, whether established as a new chapter of law or added to the list of service charges in Minn. Stat. § 429.101, cities should be able to impose service charges against**

property to ensure the maintenance and safety of the right of way for all Minnesotans without having to prove an increase in fair market value or having to determine whether those contributing to the utility fund are taxable or tax-exempt. Such authority would acknowledge the effects of repeated levy limits and the general funding shift from the state to local governments for building and maintaining necessary infrastructure; the benefits to all taxpayers of a properly maintained public infrastructure; and, the limitations of existing special assessment authority.

LE-34. Adequate Funding for Transportation

Issue: A well-coordinated state transportation policy utilizing all modes of transportation in moving passengers and freight will enhance the state economic development of new and expanding business as well as foster additional tourism opportunities.

Response: **More resources must be dedicated to all components of the state's transportation system, and local units of government must have access to resources and funding tools to meet growing needs. The League of Minnesota Cities supports:**

a) **Development of a comprehensive state transportation policy which provides an environment where all modes of transportation (motor, rail, air, water and pipeline) complement each other in moving passengers and freight within the state.**
b) **A dedicated and sustainable state revenue source for non-municipal state aid city streets.**
c) **The Statewide Transportation Plan 2009-2028 developed by the Minnesota Department of Transportation (MnDOT).**
d) **MVST distribution of 60 percent for roads and bridges and 40 percent for transit.**
e) **A permanent increase in the gas tax.**
f) **Indexing of the gas tax, provided there is a limit on how much the tax can be increased for inflation in a given amount of time.**
g) **Increases in vehicle registration taxes (tab fees).**
h) **Trunk highway bonding provided the Legislature implements reasonable restrictions on the amount of debt service the state will incur, and provided the Legislature appropriates funding to assist with local costs related to projects funded with trunk highway bonds.**
i) **General obligation bonding for local roads and bridges, particularly for routes of regional significance.**
j) **A sales tax increase dedicated to transportation.**
k) **Funding to assist cities burdened by cost participation responsibilities imposed by improvement projects on the state's principal arterial system and on the county state aid highway (CSAH) system.**
l) **Funding for transportation components of economic development and redevelopment projects.**
m) **Full funding for all components of state highway projects, including related stormwater management systems, through state sources.**
n) **Establishment of a "Mainstreets Fund" to assist cities with non-transportation related components of trunk highway projects such as utility upgrades and improvements that contribute to economic development.**

o) **Funding to build roads to standards that can accommodate the year-round transport of heavy loads.**
p) **A sales tax exemption for materials purchased for state and local road, bridge, sidewalk, trail and transit construction projects.**
q) **Authority for cities to impose development impact fees for transportation infrastructure.**
r) **Local funding options that would allow cities to raise revenues for roads, bridges, sidewalks, trails, and transit.**
s) **Expanded use of alternative revenue sources such as MnPASS and other tolling mechanisms for funding of maintenance and construction (where feasibility studies indicate the program is appropriate).**

LE-35. Turnbacks of County and State Roads

Issue: As road funding becomes increasingly inadequate, more roads are being "turned back" to cities from counties and the state.

Response: **Turnbacks should not occur without direct funding or transfer of a funding source. A process of negotiation and mediation should govern the timing, funding, and condition of turned-back roads. Agreements should be negotiated and finalized before work on a project requiring a turnback begins. City taxpayers should receive the same treatment as township taxpayers. The requirement for a public hearing, standards about the conditions of turnbacks, and temporary maintenance funding should also apply to county turnbacks to cities. At a minimum, roads that are proposed to be turned back to a city government should be brought up to the standards of the receiving government, or that city should be compensated with a direct payment. Direct funding should be provided for smaller cities that are not provided with turnback financing through the municipal state aid system.**

LE-36. MnDOT Rights-of-Way Maintenance

Issue: Maintenance of property, including government property and facilities, is important to public safety and to the image of Minnesota cities. Cities are acutely aware of the responsibility they have for enforcing property maintenance codes pertaining to grass mowing, noxious weed abatement, the placement of trash in yards and fence maintenance.

Minnesota has many miles of highways that run through cities. In recent years, the Minnesota Department of Transportation (MnDOT) has cut a substantial percentage of its rights-of-way management staff. The cuts have resulted in reduced maintenance along some corridors and on parcels acquired by MnDOT for transportation purposes. Specifically, MnDOT has reduced the frequency of mowing, litter collection, noxious weed abatement, graffiti abatement and repair of fences and guard rails. This maintenance reduction has created public safety concerns, undermined efforts to keep corridors attractive and presented challenges for communities working to promote economic development.

Response: **MnDOT must maintain state rights-of-way and parcels acquired by MnDOT for transportation purposes located within city limits in a manner consistent with local ordinances governing the upkeep of private property when requested by the city. Alternatively, MnDOT should reimburse Minnesota cities for the labor, supplies, and**

equipment necessary to maintain state rights-of-way to meet city standards and/or minimize public safety hazards. The Legislature must provide MnDOT with adequate funds to maintain state rights-of-way.

LE-37. Funding for Non-Municipal State Aid City Streets

Issue: Minnesota has over 141,000 miles of roadway, and more than 22,500 miles—or 16 percent--are owned and maintained by Minnesota's 853 cities.

The Minnesota Constitution limits eligibility for dedicated Highway User Tax Distribution Fund dollars to up to twenty percent of streets in cities with populations over 5,000 (147 of 853 cities). This means almost 85 percent of municipal streets are ineligible for municipal state aid (MSA) funds and must be paid for with property taxes and special assessments. Funding challenges are compounded by city cost participation requirements in state and county highway projects, which divert resources from city-owned streets.

Recognizing the unique street funding needs in cities under 5,000 population, the 2015 legislature created the Small Cities Assistance Account (Minn. Stat. § 162.145). Funds in the account are distributed through a formula to all cities under 5,000 population for street maintenance and reconstruction. Unfortunately, funding for the account was only provided for one year.

Maintenance costs increase as road systems age, and no city--large or small—is spending enough on roadway capital improvements to maintain a 50-year lifecycle. For every one dollar spent on maintenance, a road authority--and therefore taxpayers--save seven dollars in repairs. According to a report released in late 2012 by the governor's Transportation Finance Advisory Committee, cities collectively need an additional $400 million per year to bring city streets up to an economically competitive standard.

Response: **City streets are a separate but integral piece of the network of roads supporting movement of people and goods. Cities need greater resources and flexible policies in order to meet growing demands for street improvements and maintenance. The League of Minnesota Cities supports:**

a) **A dedicated and sustainable state funding source for non-MSA city streets in large and small cities statewide;**
b) **enabling legislation that would allow cities to create street improvement districts (similar to sidewalk improvement districts already allowed under Minn. Stat. § 435.44); and**
c) **the creation of a new fund within the Local Road Improvement Program that would provide grants to cities burdened by cost participation requirements related to trunk highway and county state-aid projects.**

LE-38. Authority to Allow Amenities in MnDOT Rights-of-Way

Issue: Cities served by the state's trunk highway system frequently request features on the highway right-of-way (ROW) that would improve the aesthetics of the highway or provide public amenities exceeding components the Minnesota Dept. of Transportation (MnDOT) may include. Minn. Stat. §161.20, Subd. 2(b), gives the MnDOT commissioner authority to make agreements with and cooperate with any governmental authority relating to trunk

highway construction and improvements; however, Minn. Stat. §161.434 provides that arrangements and agreements must be "for highway purposes".

These restrictions are problematic in cities where a downtown commercial area exists along a trunk highway. Some of these cities desire amenities that would make commercial areas adjacent to trunk highways more vibrant by allowing outdoor dining, landscaping, decorative lighting or other aesthetic improvements that do not serve a highway purpose. Under current law, the city cannot approve amenities that encroach on the ROW.

Response: **The League of Minnesota Cities supports authorizing cities, by ordinance, to allow amenities that do not serve highway purposes on trunk highway ROW within their jurisdictions. The League also supports a requirement that MnDOT develop and approve rules related to local ordinances.**

LE-39. Complete Streets

Issue: There is increasing public support for the reform of local street design policies to make streets safer for pedestrians, cyclists and neighborhood residents.

Response: **The League of Minnesota Cities supports reforms in state design guidelines for local streets that would give cities greater flexibility to safely accommodate all modes of travel, including walking and biking. The state should also provide incentives such as grants to local units of government working to advance complete street projects. Crosswalks and Safe Routes to School projects should be eligible for incentives.**

The League opposes state imposed unfunded mandates that would increase the costs of building streets in contexts where facilities for cyclists and pedestrians are unnecessary or inappropriate.

LE-40. Infrastructure Fees

Issue: New development and the resulting growth create an increased demand for public infrastructure and other public facilities. Severe constraints on local fiscal resources and dramatic forecasts for population growth have prompted cities to reconsider ways to pay for the inevitable costs associated with new development.

Traditional financing methods tend to subsidize new development at the expense of the existing community, discourage sound land-use planning, place inefficient pressures on public facilities, and allow under-utilization of existing infrastructure. Consequently, local communities are exploring methods to ensure new development pays its fair share of the true costs of growth.

In *Harstad v. City of Woodbury*, the Minnesota Supreme Court recently clarified that state statute does not provide the authority for cities to impose infrastructure fees to fund future road improvements when approving subdivision applications under Minn. Stat. § 462.358, subd. 2a. Given the existing authorization to impose fees on new development of other infrastructure, such as water, sanitary and storm sewer, and for park purposes, it is reasonable to extend the concept to additional public infrastructure and facilities improvement also necessitated by new development.

Response: **The Legislature should authorize local units of government to impose infrastructure fees so new**

development pays its fair share of the off-site, as well as the on-site, costs of public infrastructure and other public facilities needed to adequately serve new development.

LE-41. Safe Routes to School Grants Management

Issue: The Safe Routes to School (SRTS) Program provides funding support for capital projects that promote and encourage more students to walk or bicycle to school by making the school routes safer and more accessible.

The following are some types of SRTS infrastructure improvement grants that are provided by the state and offered through the Minnesota Dept. of Transportation (MnDOT):

- School site improvements: secure bicycle parking facilities, traffic diversion improvements, and Americans with Disabilities Act (ADA) improvements;
- Pedestrian facilities: new sidewalk, sidewalk gap closures, and related ADA improvements;
- Bicycle facilities: bicycle trails, separated multi-use or shared paths and related ADA improvements; and
- Traffic calming and crossing improvements: curb extensions, speed humps, median refuges, enhanced crosswalk markings, timed on/off beacons, vehicle feedback signs (dynamic speed signs), and other traffic control devices.

Cities that receive municipal state aid (MSA)--those with populations above 5,000--may apply for and administer their own SRTS grants. Non-MSA cities, even those with a city engineer on staff or contract, must rely on the county to manage any grant funds secured as well as to approve the project design. In some cities, this requirement has led to project delays and disputes with counties over project design and delivery.

Response: **The League of Minnesota Cities supports changes to MnDOT rules to allow small cities that have the capacity to manage SRTS grants and projects to do so without county approval.**

LE-42. Railroads

Issue: Railroads impose far-reaching and long-term impacts on communities. The impact of railroads on communities has become more pronounced in Minnesota as the number and length of trains have increased due to frac sand and crude oil entering the state by rail to and from North Dakota. While railroads often support economic activity and can relieve pressure on roadway and bridge infrastructure, they also bring noise, environmental impacts and safety challenges. Below are some of the concerns cities have raised about railroads:

a) Local public safety personnel are underequipped to respond to a potential derailment of a train carrying hazardous materials such as crude oil or nuclear products.
b) The cost-share ratio related to roadway crossing improvements is borne disproportionately by the public sector. Some estimates are 80 percent public to 20 percent private funding, regardless of the public entity's ability to pay or whether service is provided within the community. Funding has not kept pace with the growing need for grade separations.
c) Legislation brought by the railroad industry that would exempt railroads from stormwater fees and assessments and shift the cost of complying with

stormwater management to other property owners.

d) The financial burden is faced by the public sector to deal with mitigation improvements, a cost that the Surface Transportation Board (STB) is not requiring the private sector to pay.
e) At-grade crossings are blocked by both long moving trains and by trains that stop and remain stopped, sometimes for hours at a time. Blocked crossings delay motorists and sometimes prevent passage of emergency vehicles.
f) Difficulty and expense of imposing and enforcing whistleblowing ordinances.
g) Unabated graffiti on railroad cars and structures.
h) Negative impacts of long- and short-term storage of rail cars on adjacent properties.
i) Pre-emption of local and state authority to regulate railroad activities.

Response: **The League of Minnesota Cities opposes legislation and policies that disproportionately shift authority, costs and/or liability away from railroad companies and onto other entities. The railroad industry, along with state and federal government, must:**

a) Adequately mitigate the negative impacts of railroads on communities;
b) Allow local governments to enforce the existing state and federal laws regarding the maximum time a crossing may be blocked, and provide a mechanism to do so;
c) Provide that timely notice to the impacted municipality is required in advance when a crossing or crossings will be blocked by a stopped train;
d) Require railroad companies to provide a direct emergency response telephone number for city first responders (police, fire, ambulance or other designated official) to call when an at-grade crossing is blocked, and the emergency services need this crossing immediately unblocked to continue their response;
e) Allow local governments to enforce whistle-free zones;
f) Impose and implement safety standards that are in the best interest of the public, including requiring every train that is carrying freight to be operated with a crew of at least two crewmembers;
g) Equip and train local public safety officials to respond to potential catastrophic rail incidents;
h) Develop plans and identify funding sources for more grade separations between railways and roadways; and
i) Fund and implement improvements to rail car storage facilities.

The public sector should not incur the costs of improvements sought by the private sector, and cities should not be required to fund most of the cost of crossing repairs or improvements. The federal government must exercise greater oversight of the STB to ensure fair and equitable solutions are reached when dealing with cities in Minnesota. Finally, the Minnesota Department of Transportation's (MnDOT's) Office of Freight and Passenger Rail should advocate on behalf of local communities when conflicts between cities and railroad entities arise.

LE-43. Airport Planning and Funding

Issue: Airports are an essential component of Minnesota's transportation infrastructure. Airports in the State of Minnesota serve important gateway to the region, the nation, and global markets. They serve as a primary access point to our national airport system. The Minneapolis St. Paul International

Airport (MSP) is critical to the movement of people and goods in and out of the state and even with all the planned improvements, it will eventually reach its capacity. The state needs to implement a long-term strategy to make better use of other airport facilities and existing resources, reduce environmental impacts, and achieve sound and sustainable economic growth throughout the state.

Aviation planning is a multi-layered effort with different levels of responsibilities. Currently, the State Airports System Plan is put together by MnDOT with individual pieces developed by the Federal Aviation Agency (FAA), Metropolitan Council (MC), and Metropolitan Airports Commission (MAC). Aviation planning could be improved by a more unified statewide effort and coordination of the various aviation strategies through creation of an oversight body.

Minn. Stat. § 360.017 establishes the State Airport Fund and authorizes the Minnesota Department of Transportation (MnDOT) Office of Aeronautics to support cities, counties and townships in the planning, development, maintenance and safe operation of public airports. In recent years, in order to help balance the state's budget, the Legislature transferred funds from the State Airport Fund to the General Fund. Although the borrowed funds were eventually repaid in full, efforts to preserve and improve the quality of airports throughout the state were hindered by the unavailability of these revenues.

The Minnesota Council of Airports (MCOA), a membership organization for airport authorities and municipal entities who own airports, has led efforts to bring stakeholders together. Most recently, the MCOA established the State Airports Fund Committee to work with the MnDOT Office of Aeronautics to discuss and advise future management practices of the State Airport Fund.

Response: **The state needs a higher degree of integration of agencies (FAA, MnDOT, MC, and MAC) and communities related to aviation planning. The League of Minnesota Cities supports the collaborative efforts initiated by the MCOA and supports the development of a statewide airport advisory board, which could provide input, review and make recommendations to assist in development of a comprehensive statewide State Airports System Plan.**

The state needs to make planning and investment decisions that will maximize the potential for airports to become economic development centers that provide access to domestic and global marketplaces. Investments in airports allow existing businesses to remain and grow, help attract new businesses, increase employment, and lower product and service costs for the benefit of the region.

Finally, the Legislature should not authorize shifting of dedicated State Airports Fund dollars to resolve general fund deficits.

LE-44. Airport Safety Zones

Issue: The field of aeronautics is regulated generally by Minn. Stat. ch. 360 and Chapter 8800 of the Minnesota Rules. Land use safety zones and other public airport zoning standards are established in Minnesota Rules Chapter 8800.2400, and are adopted by local airport zoning regulations that are submitted to the Minnesota Department of Transportation (MnDOT) commissioner for review and approval before adoption. Airport safety zones are intended to restrict land uses that may be hazardous to the

operational safety of aircraft using the public airport, and to protect the safety and property of people on the ground in the area near the public airport.

While some of the provisions included in the Minnesota Rules are required by the Federal Aviation Administration (FAA), other provisions go well beyond the federal requirements. In some cases, the Minnesota Rules do not make sense for the community served by a public airport.

Finally, in some cases airports cross multiple municipal jurisdictions. Neither state law nor Minnesota Rules provide powers for joint airport zoning boards. These boards could be useful in resolving interjurisdictional issues involving airport planning, development, funding and zoning.

Response: **The League of Minnesota Cities supports efforts to protect the safety and property of people living and working near public airports. The League also recognizes that the Minnesota Rules related to public airport zoning standards exceed the FAA's and other states' standards and, thus, needlessly infringe on local control. The League supports changes to Minnesota Rules pertaining to airport zoning standards that will more closely align Minnesota's Rules with those in other states, while at the same time retaining local authority to be more restrictive than the Minnesota Rules. The League also supports changes to Minnesota Statutes and Minnesota Rules that would authorize powers for joint airport zoning boards so issues related to funding, staffing, and authority to enforce ordinances can be resolved at the local level.**

HUMAN RESOURCES & DATA PRACTICES

HR-1. Personnel Mandates and Limits on Local Control

Issue: Many state laws increase the cost of providing city services to residents by requiring city governments to provide certain levels of compensation or benefits to public employees, by specifying certain working conditions, or by limiting city governments' ability to effectively manage their personnel resources. For instance, existing state laws limit governments' ability to effectively address incompetence or misconduct of city employees by specifying certain procedures or standards of conduct that cities must follow. Several laws are potentially contradictory and force local governments to choose which one to follow.

Response: **Any new legislation and changes to existing legislation should meet the following goals:**

a) **Recognize the need for local decision-making authority by local elected officials with regard to the terms and conditions of employment for local government employees (e.g., allow local elected officials to determine employee compensation, employee recognition, and to make employee benefit decisions.**
b) **Provide funding that pays the full costs of any mandated employment-related expenditures.**
c) **Avoid and eliminate expensive and time-consuming duplicative legal protections and processes for public employees.**
d) **Eliminate contradictory existing laws regarding public employment.**
e) **Eliminate mandates for local government employers that are not imposed upon the state as an employer.**
f) **Use the collective bargaining process established by state law, rather than legal mandates, to determine benefits for employees covered by collective bargaining agreements.**

HR-2. Earned Sick and Safe Time

Issue: In recent years, there have been legislative proposals to require employers to provide "earned sick and safe time" affording employees one hour of sick and safe time for every 30 hours worked. Cities recognize their employees for their dedication to public service and currently provide a wide variety of excellent benefits to their employees and prioritize the health and well-being of staff. Benefits include paid time off for most staff who are required to be enrolled in the Public Employee Retirement Association (PERA) (Minn. Stat. § 353.01, subds. 2a, 2b). In developing leave and benefit policies, cities must be mindful of the cost to citizens for programs, much of which are driven by staff compensation and benefits.

Response: **To avoid significant cost increases and to provide clarity, the Legislature should use the same eligibility requirements for public employees outlined in state statute for PERA participation if a mandatory sick and sick and safe time program is enacted by the Legislature.**

HR-3. Pay Equity Compliance

Issue: In 1984, the Legislature passed the Local Government Pay Equity Act to eliminate sex-based wage disparities in public employment. The Act requires each local government to submit reports of its pay structure to the state's Pay Equity Compliance Coordinator within the

Department of Management and Budget. The data is then subject to analysis to determine if there are inequities in the city's pay structure. Since its passage, the administrative rules implementing the Act have not substantively changed.

Response: **The League of Minnesota Cities supports the Local Government Pay Equity Act, and seeks to partner with the Legislature and the state's Pay Equity Compliance Coordinator to update and improve the current system so that cities can more efficiently and effectively fulfill the mandated reporting requirements. Local governments and the state should:**

a) **Explore and document problems individual local governments are experiencing, and evaluate whether the problems are widespread and if they can be resolved administratively;**
b) **Evaluate the reporting process, and make recommendations for improvement as needed;**
c) **Review the methodology for analyzing pay equity data; and**
d) **Evaluate the process by which cities receive notification of reporting requirements and compliance issues and make recommendations for improvement as needed.**

HR-4. Public Employment Labor Relations Act (PELRA)

Issue: The League of Minnesota Cities supports the purpose of the Public Employment Labor Relations Act (PELRA) to balance the rights and interests of public employees, public employers, and the general public. However, certain changes are necessary to assist public employers in implementing this law. For example, current definitions of "public employee" are confusing and difficult to manage. In addition, the arbitration process has produced decisions that are contrary to the interests of the public, and the legal standard for overturning arbitration decisions is very difficult to meet. Also, recent interpretations of Minn. Stat. § 179A.25 (independent review of non-union employee grievances) has created uncertainty and confusion in the longstanding judicial process used by courts to review city council administrative decisions, particularly employment termination decisions of non-union employees.

Response: **Minn. Stat. ch. 179A should be modified to:**

a) **Change the definition of "public employee" under PELRA by removing the existing 14-hour/67-day requirement and replace it with a definition in which employees must work an annual average of 20 hours or more per week.**
b) **Exclude temporary or seasonal employees, as well as unpaid volunteers, from the PELRA definition of public employee in Minn. Stat. ch. 179A.**
c) **Provide different options for accessing arbitrators and utilizing the arbitration process in order to "address inequities" between union and management representatives.**
d) **Allow public employers to bypass mandatory arbitration required under PELRA and directly access the district court system in situations where an employee is being terminated for gross misconduct (e.g., sexual harassment, sexual abuse, theft or a felony conviction) that is related to the employee's position with the public employer.**
e) **Repeal Minn. Stat. § 179A.25 or, in lieu of repeal, exclude employment terminations from Minn. Stat. § 179A.25; require a 60-day**

timeframe for filing a petition for review of a grievance under Minn. Stat. § 179A.25; and clarify that decisions of Bureau of Mediation Services (BMS) under this section are non-binding and merely advisory.

HR-5. Implications of Janus v. AFSCME

Issue: Historically, both members and non-members of public sector unions could opt out of paying the portion of dues that explicitly go to the union's political activities. But, until recently, non-members were still required to pay what was called a "fair share" fee, allegedly because even non-members receive the benefits of union representation. Union dues are deducted from employee paychecks by employers based on notification of membership provided by labor unions.

Overruling decades of precedent, in June 2018, the U.S. Supreme Court ruled it is unconstitutional for public employees who object to belonging to a union to be required to pay a fair share fee. (Janus v. AFSCME). Specifically, the Supreme Court held that laws compelling fair share dues from unwilling members violated the First Amendment by requiring these employees to, in effect, pay for speech with which they do not agree, and that affirmative, voluntary consent is required for dues deduction. Given the degree of uncertainty about the implications of the ruling, public employees are seeking information about their constitutional rights regarding labor union membership and associated dues. The Minnesota Public Employment Labor Relations Act defines unfair labor practices ("ULPs") to include dominating or interfering with the formation, existence, or administration of union membership. To avoid a potential allegation that they have engaged in unfair labor practices, if employees seek information about union membership from their employers, employers often refer their employees to union representatives for additional information. The Minnesota Bureau of Mediation Services (BMS) is the state agency charged with providing technical training and information on collective bargaining for the public sector in Minnesota. BMS would be an ideal resource for employees to find critical information about labor union membership, particularly in the wake of the recent Supreme Court ruling.

Additionally, as public sector unions are examining methods to compensate for fair share revenue that may now be lost, laws have been proposed in states outside of Minnesota, which preempt the bargaining process and impose new requirements on public employers. Some of the proposed requirements are designed to help unions market their services to their members or to require the public employers to pay the costs of collective bargaining.

Response: **To ensure that both public employers and public employees successfully navigate the current unknowns following the Janus decision, the League of Minnesota Cities urges BMS to provide and disseminate information to employees about union membership across the state. The League also urges the Legislature to act to protect public employers against:**

a) **ULP charges when providing factual information to employees about union membership;**
b) **ULP charges when requiring unions to provide original documentation of voluntary consent to dues deduction; and**

c) **being forced to pay the direct cost of employee representation by unions.**

HR-6. Public Employment Relations Board

***Issue**:* Dating back to the 1970's, Minnesota had a Public Employment Relations Board (PERB) in place, but over time, its responsibilities were changed and reassigned to another bureau. Until the reemergence of the PERB in 2014, unfair labor practices (ULPs) actions could be brought in Minnesota District Courts through injunctive relief. In 2014, the Legislature recreated PERB to hear ULPs filed by employees, employers and labor unions under the Public Employment Labor Relations Act (PELRA). The board was created in Minn. Stat. ch. 179A and after receiving initial funding, the board has yet to be fully funded or operational. Much of the current statutory language regarding implementation should be amended to ensure the PERB operates successfully and efficiently for both public employees and employers.

Response: **The League of Minnesota Cities supports the structure and process to address ULPs that was utilized before the reestablishment of the PERB in 2014. If the PERB is implemented fully and funded sufficiently, the League of Minnesota Cities encourages the Legislature to make the following changes:**

a) **Create statutory authority for the PERB to establish a fee-based structure for filing ULPs and to pay for hearing officers, with costs to be shared by employers and authorized representatives;**
b) **Allow the PERB to defer to the decisions made by an arbitrator to prevent duplicative litigation on the same issue; and**
c) **Amend the Minnesota Government Data Practices Act and the Open Meeting Law to properly maintain the integrity of the hearing process.**

HR-7. Payment of Arbitration Fees

Issue: Like other employers, cities must sometimes make difficult employment decisions and uphold certain principles in order to best serve the public. In a union environment, grievance arbitration is generally used as a "last-resort" remedy when a difficult employment decision must be made or to uphold an important principle. Legislation has been introduced in the past that would require a city or the union to pay arbitration fees if a reasonable settlement is offered and refused in a grievance situation, and the arbitrator ultimately decides on a less favorable remedy. The legislation would have the impact of discouraging cities from using the grievance arbitration process in a manner that best serves the public good.

Response: **The League of Minnesota Cities opposes legislation that would undermine the grievance arbitration process and discourage cities from using the process in the manner intended. Specifically, the League opposes any legislation that proposes payment of grievance arbitration fees when a settlement is offered and declined.**

HR-8. Essential Employees

Issue: Cities must balance the health, welfare, and safety of the public with the costs to taxpayers. Essential employee status removes the right to strike, but gives the right to mandatory binding arbitration. This status can result in arbitration awards that exceed the city's budget or conflict with the city's compensation policy.

Response: **The Legislature should carefully examine requests from interest groups seeking essential employee status under Minn. Stat. ch. 179A (PELRA). The League of Minnesota Cities opposes legislation that mandates arbitration that increases costs and removes local decision-making authority.**

The League supports a mandate for Final Offer/Total Package arbitration for all essential groups on a trial basis. The League also supports a change in the PELRA law that would strengthen existing language (Minn. Stat. § 179A.16, subd. 7) requiring arbitrators to consider a public employer's obligation to efficiently manage their operations. Specifically, the statute should be amended to require arbitrators to take into consideration any wage adjustments already given to or negotiated with other groups – both union and non-union for the same employer in the same contract year.

HR-9. Re-employment Benefits

Issue: Cities are often required to help pay the benefits of workers who have initially been denied benefits through their employment with the city but later been re-employed by a different employer; sometimes this occurs when the employee has been found to have committee gross misconduct while employed by the city.

Additionally, employers are prohibited from entering into agreements with employees not to contest or appeal payment of unemployment benefits as part of a settlement agreement at termination of employment. Because most cities are "reimbursement employers," the majority of the cost of benefits paid to the employee are at the direct expense of the city. The ability to enter into such an agreement can greatly aid a city in reaching a settlement at a relatively low-cost to the city's taxpayers.

Response: **Cities should not be forced to pay benefits as bae wage employers if the employee is determined to have committed gross misconduct during their employment with the city, even if the employee voluntarily resigns. In addition, cities (as reimbursement employers) should be allowed to enter into agreements with employees to not contest a determination of eligibility for unemployment benefits where the employer and employee mutually agree to this as a term of separation.**

HR-10. Public Employee Defined Benefit Pension Plans

Issue: Public pensions are an important employee benefit that can help cities attract and retain employees. However, unlike salary and other employee benefits that are established by each city, the pension contribution rates and benefit levels are set by the state legislature. Benefit levels and plan costs must be carefully balanced to assure long-term sustainability of the pension plans and affordability to employers and employees. Despite ongoing funding issues, the Legislature and Governor had been unable to reach agreement on sustainability changes to the Public Employees Retirement Association plans.

In 2018, the Legislature enacted a major pension reform package to improve the long-term financial status of the PERA pension plans. The legislation included benefit reductions for active employees, contribution increases for Police and Fire Plan employers and active employees and a modified cost of living adjustment (COLA) for retirees.

Recent adjustments to balance PERA plan costs have largely focused on contribution increases rather than benefit adjustments. On January 1, 2015, the employer and employee contribution rates for the PERA General Plan each increased by 0.25% of salary, resulting in the current employer rate of 7.5 percent of salary and an employee rate of 6.5 percent of salary. For PERA Police and Fire (P&F) employees, the employer contribution was increased to 16.95% and the employee contribution was increased to 11.3% beginning January 1, 2019 and then the employer contribution was increased to 17.7% and the employee contribution was increased to 11.8% beginning January 1, 2020.

For the PERA General Plan, an additional one percent employer contribution is required under Minn. Stat. § 353.27, subd. 3a, which will continue until the actuarial value of the plan assets equal or exceed the liabilities. Employees do not have a similar obligation to help the General Plan reach full funding. When the additional employer contribution was increased to 0.43 percent in 1997, the state instituted a PERA aid program for employers to partially offset the cost of increased employer contributions. However, the PERA aid payment rate is frozen at 1999 levels, while the additional employer contribution has since increased from .43% to 1.0%.

Response: **The League of Minnesota Cities supports the sustainability modifications enacted by the legislature in 2018 and continues to oppose any benefit improvements for retirees or active employees until the financial health of the General Plan and the Police and Fire Plan is restored.**

For the PERA General Plan, any further increases in employer contributions should only be considered by the Legislature after other measures have been considered, including:

a) **An increase in employee contributions so that employees and employers truly bear the same responsibility to bring the pension plans to full funding; or**
b) **The removal of 1) the cap on PERA Pension Aid payments and 2) the sunset of the aid program after FY2020, so the state equalizes the contributions of employees and employers.**

The League also supports:

a) **Modifications to the PERA eligibility guidelines to take into account temporary, seasonal, unique part-time, and student employment situations in cities, particularly in recreational operations. These modifications should include the use of pro-rated service credit, which would make PERA consistent with the other major Minnesota pension plans.**
b) **A comprehensive review of exclusions from pension participation with the goal of simplifying current eligibility guidelines. Such a review should also include a possible revision of current penalties for employers that fail to report covered employees to ensure that these penalties are not overly harsh and punitive.**
c) **The transfer of all school district employees out of the PERA General Plan and into another fund that is more appropriate for school district employees as long as the change would not negatively impact the financial health of the pension funds nor result in employer contribution increases. The continued authority of cities to effectively use retirees in reemployment situations. The League**

supports policy changes which would include an increase in the earnings threshold for such retirees and supports keeping the required break in service at 30 days and opposes suspending payments to retirees.

For PERA Police and Fire, any further increases in employer contributions should only be considered by the Legislature after other measures have been considered, including:

a) An initial increase in the employee contribution of at least 1.0% of salary with subsequent increases split evenly between employee and employer so that the contribution ratio moves toward a more equitable split between employees and employers; or
b) An additional state general fund appropriation to fund the deficiency in police and fire pension aid payments so that the state equalizes the contributions of employers and employees.
c) Increasing the minimum and full retirement ages for new PERA Police and Fire plan participants.
d) Implementing a contribution-based benefit formula that would align benefits payable with contributions made on behalf of an employee in order to address high-five spiking issues.

The League also supports:

a) Maintaining the statutory changes made to Minn. Stat. § 353.01 in 2007 that separate injuries resulting from "hazardous duties" from injuries resulting from "non-hazardous duties" for purposes of police and fire disability retirement benefits.
b) A thorough study by PERA of the current effects of overtime accumulation and outside employment compensation on individual pension benefits and the overall funding of the plan. The study should also include recommendations on whether the overtime or outside employment should be factored into or excluded from high five average wage calculations.
c) Allowing cities, including cities with combination (full-time and paid-on call staff) fire departments, to work with their fire relief associations to determine the best application of fire state aid.

For PERA Corrections Plan the League supports:

a) Maintaining the current definition of covered employees for the PERA corrections plan, which does not include dispatchers due to the substantial differences between the dispatchers and the existing corrections positions covered by this plan.

For all PERA defined benefit plans the League supports:

a) Adjustments to the benefits for active members and retirees to reduce the cost of the plans.
b) Requiring special legislation for individual employee pension benefit increases be initiated or approved by the city council of the impacted city unless the cost of the benefit increase is fully covered by the individual or the legislation addresses a clerical or administrative error.
c) Requiring PERA to collect and consider all employer-provided information, including independent medical examinations and other relevant personnel data and to

broaden the basis for appealing disability determination decisions.

HR-11. Retirement Work Incentives

Issue: Demographic experts warn that as the baby boomers retire, employers will begin to experience a significant labor shortage and lose the substantial expertise and knowledge of a fully-trained workforce. One solution to the coming labor shortage is to provide some incentives for retirees to postpone full retirement with a "phased-in" approach that would allow "knowledge transfer" to take place between the retiree and less-experienced replacement staff.

The Phased Retirement Option (PRO) program was created by PERA for this purpose. The PRO program meets many of the goals of workforce planning. However, cities would benefit from broadening the criteria for participation; currently, only employees age 62 or older can participate. In addition, the program is scheduled to sunset in 2019. The program, as introduced, allows for five one-year renewals, which may be more than is needed to meet the intended purpose.

Response: **The League of Minnesota Cities supports changes to the PRO program (if actuarially neutral for PERA pension plans) that would:**

a) **Broaden the criteria for participation to allow employees to participate at a younger age if such a change can be made without damaging the tax-favored status of the plan.**
b) **Remove the sunset provision to allow the plan to continue past 2019.**
c) **Reduce the number of one-year renewals from five to three.**

In addition, the League supports working with PERA to adjust member pension benefits as they continue to work under a PRO.

HR-12. State Paid Police and Fire Medical Insurance

Issue: Minn. Stat. § 299A.465 requires public employers to continue health insurance benefits for firefighters and peace officers injured in the line of duty. When the law was enacted in 1997, it contained a provision requiring the Department of Public Safety (DPS) to reimburse employers for the full amount of administering this benefit.

By 2002, the fund created to provide this benefit became deficient. Instead of increasing the fund, the 2003 Legislature amended the law to pro-rate reimbursements to cities based on the amount available and the number of eligible applicants. The 2003 law change triggered a significant and unanticipated cost to cities. The cost has increased every year for cities, and the funding for the account has never been increased. Even if the health insurance benefit was discontinued entirely, the costs for existing recipients will substantially increase well into the future due to the growing cost of health insurance.

In 2015, the Legislature expanded the health insurance benefit to include survivors of volunteer firefighters who die in the line of duty. This change increased the number of firefighters eligible for this benefit from 2,000 to 20,000—without increasing funding for the reimbursement account.

Response: **The League of Minnesota Cities supports the following legislative actions to address the funding deficiency in this program:**

a) **The state must fully fund programs that pay for health insurance for police and fire employees injured in the line of duty and dependents of police and fire employees killed in the line of duty as originally required under Minn. Stat. § 299A.465.**
b) **The Legislature must avoid further expansion of eligibility for benefits under Minn. Stat. § 299A.465 unless 1) full funding for benefits is provided by the state; and 2) beneficiaries can be enrolled in a state health insurance plan such as the Public Employees Insurance Program (PEIP).**
c) **Cumulative injuries that occur over time in the job should not qualify a police officer or firefighter for benefits under Minn. Stat. § 299A.465 since these types of cumulative injuries are not unique to the dangers of police officer and firefighter duties.**
d) **The Legislature must clarify that the amount of an employer's contribution under Minn. Stat. § 299A.465 is no greater than that given to active employees in the same job class.**
e) **The Legislature must establish the minimum criteria used to determine ability to work, and set a percentage threshold of disability for eligibility into this program. At a minimum, the Legislature must identify that a workers' compensation determination as to whether the injury is work-related is necessary in order to receive the benefits under Minn. Stat. § 299A.465.**
f) **Employees who receive a police and fire disability retirement benefit and accept another job that offers them group health benefits should be required to pay for their group health benefits with the city should they decide to continue them. The Legislature must amend Minn. Stat. § 299A.465 to reflect that employees are required to inform the city when they become eligible for coverage under another group plan and that failure to do so is grounds for termination from the benefits granted under Minn. Stat. § 299A.465.**

HR-13. Health Care Insurance Programs

Issue: Cities, like other employers in the state, are struggling with the rising costs of health care insurance for their employees. In addition, cities must cope with unfunded mandates imposed on them by the Legislature such as the requirement to pool early retirees with active employees and the requirement to bargain over changes in the "aggregate value" of benefits, even when the city's contribution has not changed.

Response: **The League of Minnesota Cities supports legislative efforts to control health insurance costs while maintaining quality health care services. However, cities have differing local needs and circumstances and must retain the flexibility to provide unique and creative solutions to the rising costs of health care insurance for their employees. The League:**

a) **Opposes legislative action that undermines local flexibility to manage rising health care costs.**
b) **Encourages the Legislature to carefully examine the costs and administrative impacts of any new, mandated insurance-related benefit before imposing it upon city employers.**
c) **Supports changes to Minn. Stat. § 471.6161, subd. 5, that would clarify the intent of the subdivision is to address changes in cost vs. changes in value (e.g., changes in provider**

networks, changes in benefit levels required by an incumbent insurance carrier, changes required for compliance with state and federal laws, including those needed to avoid incurring the federal excise tax known as the "Cadillac Tax".

d) **Supports changes to Minn. Stat. § 471.61 so that the requirement for cities to offer retiree coverage begins on the date the retiree and/or dependents become eligible for federal Medicare coverage.**
e) **Supports a clarification to Minn. Stat § 471.61 and to Minn. Stat. § 471.617 to explicitly alleviate a city's responsibility to comply with group health benefits mandated by state law when the city's employees are covered under a union plan authorized by federal statutes.**
f) **Supports statutory authorization for cities to collect up to a two percent administrative fee from retirees receiving post-retirement health insurance benefits.**
g) **Opposes any mandatory, centralized, statewide health insurance option for active or retired city employees.**
h) **Supports changing Minn. Stat. § 62A.21 to place reasonable limits on health care continuation for former spouses, similar to the Federal COBRA law.**

HR-14. Workers' Compensation

Issue: Rising medical costs are an increasingly serious problem for all employers and insurers, and now represent over half of all loss costs within the workers' compensation system. Medical costs will be a major driver of future workers' compensation premium increases. In addition, the 2013 legislature added post-traumatic stress disorder (PTSD) as a compensable injury and in 2014, a Minnesota Supreme Court decision found that provisions in the Workers' Compensation statute which allow workers compensation benefits for permanent and total disabilities to be offset by disability benefits and pension benefits such as Social Security does not apply to retirement benefits of the Public Employees Retirement Association. In 2018, the Legislature modified Minn. Stat. § 176.011 subd. 15, which defines an occupational disease to add a rebuttable presumption to a diagnosis of PTSD in certain public safety and related personnel. The Minnesota Legislature also regularly considered proposals to expand the heart, lung and infectious disease presumptions for public safety workers, and to make the presumptions more conclusive and difficult to rebut. These types of benefit expansions would further increase municipal workers' compensation costs.

Response: **Legislative action is necessary to address increasing workers' compensation costs, particularly rising medical costs. The League of Minnesota Cities supports use of the Workers Compensation Advisory Council (WCAC) system to consider proposals for changes to the workers' compensation law, and urges the WCAC and the Legislature to approve medical cost containment reforms. The League also supports filling an existing WCAC employer vacancy with a public-sector employer representative or adding a designated public-sector employer representative to the WCAC.**

The League opposes expansion of workers' compensation and related health insurance benefits because of the potential for dramatically increasing costs to cities. Specifically, the League opposes expansion of the heart, lung and infectious disease and PTSD presumptions as well as any expansion of

the law that would require payment of health insurance premiums.

The League also supports continuing the WCRA as the mandatory workers' compensation reinsurer for insurers and self-insurers in Minnesota and supports modifying state statutes to treat PTSD events involving several affected parties as one occurrence for retention purposes, thereby reducing the exposure of self-insured entities and the statewide insurance pools. Such a change would not have any effect on the benefit an individual employee would receive.

The League supports legislation that would disallow the "stacking" of PERA retirement benefits and Workers Compensation benefits due to the fact that some injured employees could receive total compensation from workers' compensation and PERA retirement benefits that would be well above the salary that they had been earning and the fact that the costs would ultimately be passed on to cities and their taxpayers.

HR-15. Drug and Alcohol Testing in the Workplace

Issue: Employer testing of job applicants is governed by Minn. Stat. § 181.950 – 181.957 and is known as the Drug and Alcohol Testing in the Workplace Act (DATWA). It applies to all employers with one or more employees, including cities. The DATWA has not been amended for many years to reflect various and significant changes in drug-testing technology nor policy changes at the federal level.

The DATWA prohibits an employer from terminating an employee for a positive controlled substance test without first providing the employee a chance for rehabilitation and treatment. This law applies to probationary employees as well as those who have completed probation.

Currently, breathalyzer use and saliva swabs are permitted for alcohol testing under federal commercial driver testing laws though Minnesota does not allow for the use of breathalyzers in testing. Use of breathalyzers for employee alcohol testing is a less invasive, less expensive method. In addition, federal commercial driver testing laws address a number of outcomes other than a positive test result, including but not limited to tampering with a sample, providing a substitute sample, providing a sample that is not human urine, providing a sample that is not capable of being tested, etc. State law is silent on these outcomes.

Response: **The League of Minnesota Cities supports the following changes to the DATWA:**

a) **Updates to reflect new issues, such as adding new definitions as needed to reflect current practices;**
b) **Clarification that a positive controlled substance test during probation does not require the employer to provide an employee who has not completed probation a chance for rehabilitation and treatment; and**
c) **Permitting the use of breathalyzers and saliva swabs as acceptable technology for determining alcohol use.**

HR-16. Veterans Preference

Issue: Cities have a long history of recruiting and hiring veterans as they are a natural fit in city government. Across the state, cities are partners in working with and ensuring veterans have a variety of opportunities afforded to them given their sacrifice and service. The purpose of the Minnesota Veteran's Preference Act (VPA)

is to facilitate the transition of veterans from the military to civilian life and to help compensate veterans for their sacrifices of health and time to the community, state and nation. The VPA grants veterans limited preference over nonveterans in hiring and promotion for most state and local government employment to recognize the training and experience they received as a result of serving in the military. It also provides local government employees who are veterans some protection against unfair demotions and dismissals. These preferences and protections are commonly referred to as "veteran's preference" and are codified in Minn. Stat. §§ 43A.11, 197.455, 197.46, 197.48, and 197.481.

Once a veteran has completed an initial probationary period upon hire, they cannot be removed from their position or employment, except for incompetency or misconduct shown after a properly noticed hearing. Currently, a veteran can only be placed on probation upon hire but not following a promotion. It is common practice to place employees on probation following employee promotion making this restriction inconsistent with current practice and procedure.

Termination hearings are held before the local civil service commission or before an arbitrator and Minn. Stat. § 197.46 allows a veteran to choose a hearing before the local civil service commission, or an arbitrator. Members of civil service commissions are chosen for their expertise and experience with employment law. Hiring an arbitrator for a hearing instead of utilizing an established civil service commission is inefficient.

Response: **The League of Minnesota Cities recognizes the important contributions veterans have made and supports giving veterans limited preference in employment. To strengthen and improve the VPA, the legislature should:**

a) **Allow cities to place veterans on probationary periods upon promotion as they do with other employees; and**
b) **Restore the language in Minn. Stat. § 197.46 requiring a hearing to be held before a local civil service commission where one exists.**

HR-17. Military Leave Reimbursement

Issue: Minn. Stat. § 192.26 subd. 1, requires local units of government to provide 15 days of compensation per year to employees who are members of the military for military leave. State laws give preference to hiring veterans for public sector jobs, and, citizen soldiers are a natural fit to also serve as public safety personnel. As such, many public safety personnel are often also members of the military and are required to conduct training and military duties throughout the year.

In addition to providing compensation for mandatory military leave, cities must also ensure that these temporary vacancies are adequately filled by public safety personnel whose training and qualifications are unique to providing public safety. This can result in added overtime costs and may impact public safety service levels.

Government employers honor and recognize the importance of ensuring members of the military are able to fulfill their duties and participate in mandatory training, while also aiming to ensure that public safety service in their community is efficient, seamless, and cost-effective. In response to this issue, there have been recent legislative proposals to reimburse local units of government for

military leave paid to public safety personnel.

Response: **The League of Minnesota Cities supports state funding to ensure that local units of government can maintain quality and cost-effective public safety services in their communities and for their taxpayers while also offering full support for employees who are members of the military. Such state funding could include reimbursement of costs incurred to local units of government related to compensating personnel on military leave as well as reimbursement for costs related to ensuring these temporary vacancies are adequately filled.**

HR-18. Background Checks

Issue: Current law allows criminal justice background checks on active employees (as opposed to applicants for employment) only when such employees are firefighters or work with children. The law governing criminal history background checks on police and other city employees does not specifically allow such checks on active employees. Cities need the ability to be able to conduct criminal history background checks on active employees as well as applicants for employment using the BCA or the BCA database access.

Response: **Cities should be able to conduct, but not be required to conduct, criminal history background checks on active employees using the BCA database. The laws governing background checks for all city employees should be amended to allow for this practice. For those cities that choose to use the BCA to run the criminal history employment background check for them, the fee should be the same as that charged to non-profit organizations.**

HR-19. Tele-Health Exams

Issue: Technology improvements are creating new ways to approach many city functions. Specifically, the increased acceptance of the use of tele-health (audio and video, web-based) exams creates an opportunity for cities to access and use psychologists with specific expertise in public safety as part of the hiring process for police officers. However, the Peace Officers Standards and Training (POST) Board has adopted a position prohibiting the use of tele-health exams for the required psychological oral interview/evaluation prior to hiring.

Response: **The League of Minnesota Cities supports the use of tele-health (audio and video, web-based) exams to meet the requirements of the POST Board for a psychological oral interview/evaluation prior to hiring a police officer candidate.**

HR-20. Critical Incident Stress Debriefing

Issue: Critical Incident Stress Debriefing (CISD) is a process designed to assist first responders deal with the stress and potential mental health issues after experiencing a traumatic incident. CISD can be similar to traditional counseling between a counselor and a group of law enforcement officers, firefighters, or other first responders, or it can involve one-on-one peer counseling between non-licensed counselors, such as first responders who have experienced similar incidents.

CISD data is classified as private under the Minnesota Government Data Practices Act (MGDPA), and Minn. Stat. § 181.973 prohibits a participant in CISD or other peer counseling from disclosing any information shared in counseling sessions without the

permission of the subject. Neither of these protections, however, prohibit the discoverability or admissibility of CISD data in a lawsuit, and federal common law on evidentiary privilege applies to licensed psychotherapists and social workers only. *Jaffee v. Redmond*, 518 U.S. 1 (1996).

CISD is an important tool used to assist first responders, and those in need of CISD services should be allowed to participate in peer counseling without fear of having statements later used against them in court. This undermines the value of CISD and makes it less likely that first responders will seek help.

Response: **The Legislature should amend Minnesota law to exclude any statements or other information from employer-sponsored CISDs from being admissible in court, pursuant to the same guidelines as those established for registered nurses, psychologists, or licensed social workers under Minn. Stat. § 595.02, subd. 1(g).**

Data Practices

DP-1. Data Practices Compliance Costs

Issue: The purpose of the Minnesota Government Data Practices Act (MGDPA) is to protect personal information from indiscriminate disclosure while balancing the right of the public to know what the government is doing. The Act also attempts to balance these rights within a context of effective government operation. The League of Minnesota Cities supports the public policy behind the MGDPA while acknowledging that compliance with the law imposes costs on local taxpayers. Smaller cities struggle with limited staff and resources while larger cities struggle with larger complex databases. The MGDPA must balance the right of citizens to access public data with the cost to municipalities of complying with certain types of data requests.

In 2014, the Legislature imposed additional security requirements on political subdivisions in an attempt to prevent unauthorized individuals from accessing private data. Adequate security measures are important, but they make compliance with the MGDPA more difficult and costly. Although the Legislature has made compliance with the MGDPA a priority, funding for the Data Practices Office of the Department of Administration, the department charged with overseeing the MGDPA, does not reflect the increased need for local government assistance.

Cities continue to receive repetitive, overly broad and far-reaching data requests that require significant staff time to locate government records, redact private data or data unrelated to the request, and assemble documents to be provided in order to comply with requirements to provide access to public government data. Cities are experiencing significant increases in wide-ranging data requests, often utilizing specific word searches through multiple databases. "Word search" requests typically result in a voluminous quantity of data that must be reviewed and redacted, with significant staff cost. Because word searches retrieve even incidental references to the searched term, the search results often contain a significant volume of data that has little informational value. If the requestor does not request copies, the search costs cannot be recovered – even though the requestor dictated the specifics of the search.

Furthermore, in some situations, as with overly broad data requests related to "applicant" lists, staff time and costs are significantly increased and not recoverable for very limited public benefit. The MGDPA

also limits the ability of cities to be reimbursed for responding to requests.

Cities are limited to charging only 25-cents per page for copies of police motor vehicle incident reports, which does not cover the city cost for copying, while the Commissioner of Public Safety is exempt from this restriction—thereby permitting the Department of Public Safety to continue to charge $5 for incident reports that cities are required to submit to the department.

Response: **As the cost of complying with the MGDPA increases, the League supports:**

a) **Providing additional state funding to assist political subdivisions with meeting the increasing complexity of managing government data.**
b) **Providing state funding for statewide data practices training.**
c) **Allowing political subdivisions to charge for the staff time that is required to comply with wide-ranging data requests regardless of whether copies of the data are requested or allowing political subdivisions to charge for actual costs for collection of data when the requestor makes his or her own copy of the data by taking a photo, bringing a copy device, etc.**
d) **Providing a mechanism that would permit cities to challenge whether a data request is reasonable and made in good faith.**
e) **Creating and funding an ombudsperson position in the Data Practices Office to determine reasonableness and proportionality of data practices requests.**
f) **Providing funding to the Data Practices Office to engage in the rulemaking process to establish standards and procedures related to requests and responses to data practices requests that impose significant burdens on government entities.**
g) **Amending the MGDPA to limit what is considered public applicant data to better balance the value of public data with the cost related to data practices compliance.**
h) **Allowing political subdivisions to charge the same amount for copies of motor vehicle incident reports issued by local police and fire departments as the commissioner of public safety.**

The League of Minnesota Cities opposes:

a) **Further increasing the maximum exemplary damages that courts may impose against government entities, including cities, found to have violated the MGDPA; further increasing the maximum civil penalty that may be imposed when a court order is issued to compel a government entity to comply with MGDPA; or any statutory change that would make it a mandatory civil penalty to compel compliance under the MGDPA.**
b) **Repealing of the administrative remedies provisions adopted by the 2010 Legislature to address disputes regarding MGDPA compliance issues.**

DP-2. Records Retention Compliance Costs

Issue: The Official Records Act requires government entities to "make and preserve all records necessary to a full and accurate knowledge of their official activities." In accordance, cities must establish a records retention schedule, and maintain and destroy official records according to this schedule. There are rigorous requirements for any changes to a city's records retention schedule, including getting approval from the statutorily-created Records Disposition

Panel, which strikes an appropriate balance between the government entity's decision-making role in determining retention and disposition of official records with the public's right to know the government entity's official activities.

Response: As the cost of complying with the records management laws increases, the League supports providing additional state funding to assist political subdivisions with meeting the increasing complexity of managing government records.

The League of Minnesota Cities opposes changing the current record management requirements and statutory definitions. If changes are needed, subject matter experts should make recommendations through the records retention schedule process.

DP-3. Updating the Minnesota Government Data Practices Act

Issue: The Minnesota Government Data Practices Act (MGDPA) was first enacted in 1979. Almost 40 years later, times have changed dramatically. In particular, there has been exponential change in technology. In 1979, cities were largely maintaining data in paper form, computers had just become viable for home users, word processing had just become a reality, the first point-and-shoot, autofocus camera came on the market, and the internet was still about a decade on the horizon.

While the MGDPA was originally drafted to be future thinking by contemplating the various forms data could be held – including the concept of storage media – the legislators of the time could not have imagined where technology would be today. For example, the originally-drafted MGDPA made reference to photostatic, microphotographic, or microfilmed records. Minn. Stat. § 13.03, subd. 1. The current law still refers to these same mediums of data, despite cities no longer maintaining data in this manner.

Technology has exploded, and the type of data collected by this new technology has multiplied. In our current reality, the public and government have been frustrated by how best to access government data. In *Webster v. Hennepin County*, 910 N.W. 2d 420 (Minn. 2018), the County was asked to conduct a computer-aided search of all its email accounts over multiple years for 20 separate search terms related to biometrics and facial recognition. The Minnesota Supreme Court found that the County failed to establish procedures to ensure appropriate and prompt compliance with data requests but did not find that the County failed to keep its records in an arrangement and condition to make them easily accessible for convenient use. The Court also did not address if a term search was a valid data practices request or if a request could be unduly burdensome. The lack of direction from the Court on these issues leaves a void.

There are also other advances in technology that are not comprehensively addressed by the MGDPA. While the Legislature has attempted to address technological advancements as they come, it has been in piecemeal ways.

Response: **The Legislature should update the MGDPA to comprehensively address technological changes since the Act was first enacted. Because the MGDPA is a complicated area of law, the Legislature should make changes based on the consensus recommendations from subject matter experts from all levels of government and interested stakeholders, including recommendations on what constitutes as a reasonable data practices**

request and when a data practices request is unduly burdensome.

DP-4. Maintaining Government Data in Large Databases

Issue: The Minnesota Department of Administration Advisory Opinion 10-016 issued in June 2010 maintains that the Minnesota Government Data Practices Act (MGDPA) requires cities to keep records containing public government data so that they can be easily accessible and convenient to use, regardless of how they are kept. Cities maintain that the application of this advisory opinion to large databases in which records are kept in an electronic format forces cities to risk the daily threat of allegations of noncompliance or leaves local government officials confused regarding how to apply the requirement for access to data in circumstances where information technology is utilized to facilitate the management and organization of records and information which often includes public, private, and nonpublic data within individual data sets.

In addition, large databases today contain different forms of data, including video, audio, images, and social media. In responding to data practices requests, responsive data could be stored in multiple data bases. Further, with the advent of cloud-based information systems provided by the private sector, newer databases are not typically designed to be controlled by cities to easily separate public from non-public data.

Response: **The state of current technology requires cities to maintain large databases that are designed to provide secure data storage and maintenance. Those databases are already burdensome and expensive for cities to maintain, but are not available in a form in which public and private data can be easily separated. Requiring cities to design such databases to accommodate extensive data requests under MGDPA is both financially and technologically challenging to achieve.**

The Legislature should address the growing and costly impact on cities of providing access to specific public data housed in large electronic databases. Cities also require discretion in determining that the release of certain incident data could identify an individual whose identity must be protected.

DP-5. Sharing of Student Data with Local Law Enforcement in Emergencies

Issue: Minn. Stat. § 13.32, subd. 3(l), defines education data as private data that must not be disclosed except to the juvenile justice system in cases where information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals. In addition, the federal Family Education Rights & Privacy Act (FERPA) bars schools from disclosing information on student educational records that contains personally identifiable information without consent of a parent or eligible student, with only limited exceptions.

Minn. Stat. § 13.32 does not adequately define who is responsible for making the determination that an emergency or risk of harm exists. As a result, school district officials have interpreted the statute in conjunction with the restrictions in FERPA to require that the determination be made solely by school officials.

Local police officials are often frustrated in their efforts to investigate allegations of

criminal or other illegal activity when school officials refuse, under Minn. Stat. § 13.32, subd. 3(l), and FERPA, to provide information to follow up such complaints or to assist local police in solving crimes that have already taken place.

School boards are responsible to have policies in place that require school officials to report a student who possesses an unlawful firearm to law enforcement or the juvenile justice system. But schools are not allowed to release the name of a student in dangerous weapon reports involving use or possession of such weapons that are made to the Minnesota Department of Education.

Response: **Minn. Stat. § 13.32 should be clarified to allow local law enforcement agencies to work with school officials to jointly make the determination that an emergency or risk of harm exists in order to enable police enforcement actions to be taken in a timely manner.**

DP-6. Disclosure of Victim Data

Issue: Under the Minnesota Government Data Practices Act (MGDPA), the name and address of a victim or casualty of an accident or incident to which a law enforcement agency responds is public government data. In addition, the name and location of the health care facility to which victims or casualties are taken is public government data. The MGDPA allows for a crime victim to prevent the disclosure of public data, but no such provision exists for accident victims. Accident victims and their families can be traumatized by the events that caused their injuries. Publicly disclosing their identities and the location where they are receiving medical care places a burden on families and victims who may be questioned by reporters, solicited by lawyers, and contacted by other members of the community. While there are legitimate public policy reasons to make this information public, the MGDPA provides no discretion for city officials and law enforcement to temporarily withhold victim data when releasing it is not in the best interest of the victims. This not only makes the initial period of recovery more difficult for victims, but erodes the trust between victims and state and local government.

Response: **The Legislature should amend Minn. Stat. § 13.82 to temporarily prohibit the disclosure of victim data if the victim or victim's family specifically requests not to be identified publicly, and the agency or local government reasonably determines that access to the data would cause emotional or physical harm to the individual or otherwise impede the individual's recovery.**

DP-7. Challenges to the Accuracy of Data

Issue: The Minnesota Government Data Practices Act (MGDPA) allows the subject of government data to challenge the accuracy or completeness of data maintained by the government entity. If the government entity denies the challenge, the Act allows the data subject to appeal that determination through a contested case proceeding under the Administrative Procedures Act (APA).

In the human resources context, a performance evaluation is a tool used to document and evaluate employee job performance. Performance evaluations are not discipline; however, some jurisdictions and some union contracts have appeal processes to challenge a performance evaluation. Performance evaluations are normally conducted once a year.

The Minnesota Supreme Court recently held that a public employee could use the MGDPA to challenge the accuracy of

certain information contained in the employee's performance evaluation. *Schwanke v. Minn. Dept. of Admin.*, 851 N.W. 2d 591 (Minn. 2014). While the Court held that "dissatisfaction with a subjective judgment or opinion cannot support a challenge under the [MGDPA]," a data subject can still challenge data that supports the subjective judgment. There is currently no limitation on when a performance evaluation challenge may be brought. Often there is no retention period for the underlying data because it is rarely an official record. Furthermore, the more time that passes, the less likely those with the knowledge of a given performance evaluation may be still employed by the city. It is to everyone's benefit to have the challenge to accuracy of data conducted as soon as possible.

Under *Schwanke*, an invalid challenge to a subjective opinion can no longer be dismissed by the Department of Administration; it can only be dismissed in a contested-case proceeding. In even a frivolous challenge the data subject will have the right to submit evidence and call witnesses at taxpayer expense.

This right of review is in addition to any union grievance process, and can be exercised by an employee before or after such a grievance is undertaken. This process can result in conflicting decisions and has the potential to create a heavy burden on all levels of government, and impose significant costs on taxpayers.

Response: **In light of the *Schwanke* decision, the Legislature should modify the data challenge provision of Minn. Stat. § 13.04, subd. 4, to balance the rights of data subjects to challenge the accuracy and completeness of data with the administrative and financial burdens on local governments and taxpayers.**

DP-8. Law Enforcement Technologies

Issue: To aid law enforcement in work, law enforcement agencies need the flexibility to effectively use all available tools, including technology, in a manner that balances privacy interests of citizens, transparency of their work, and costs related to these technologies. The Legislature has balanced these concerns in the recent License Plate Readers law and the Police-Worn Body Camera law.

License Plate Readers (LPRs) are an important tool that assist law enforcement agencies in locating wanted individuals, recover stolen vehicles, and many other types of investigations. Nevertheless, the use of this technology raises legitimate privacy concerns. In 2015, the Legislature passed compromise legislation regulating the use of LPRs, the classification of LPR data, and the retention period for LPR data that struck a fair balance between the need for robust law enforcement and individual privacy rights.

Police-worn body cameras (or portable recording systems) provide invaluable evidence when investigating crimes and prosecuting criminals, and strengthened trust of citizens in law enforcement by increasing the accountability between peace officers and the public. Different than other kinds of data, body camera data use involves the unique complexities of the sensitive nature in its use in private homes as well as the sheer volume of data in daily use. In 2016, the Legislature contemplated all of these issues and passed compromise legislation regulating use of body cameras, classification of body camera data, retention period for body camera data, release of body camera data, audit requirements, and written policy requirements.

Response: **Cities and/or law enforcement agencies should be allowed to decide whether to utilize technology and be given the flexibility to decide how they are used in the field. The League supports the continued use of License Plate Readers under the terms of the 2015 legislation, and opposes any further restrictions on their use or any reduction in the current 60-day retention period.**

The League supports the continued use of Police-Worn Body Cameras under the terms of the 2016 legislation, and opposes any further restrictions on their use, data classification, retention period, or written policy requirements.

DP-9. Rideshare Data

Issue: As cities partner with private entities to provide greater service to our communities, the data practices implications become increasingly complicated. Cities appreciate the purpose behind the Minnesota Government Data Practices Act, which is to protect personal information from indiscriminate disclosure while balancing the right of the public to know what the government is doing.

Cities are starting to provide rideshare programs to help facilitate transportation for their residents. Along with providing such a service, rideshare data is collected by cities. Rideshare data is sensitive and personally identifiable. Without private classification, participant data would be made available upon request and could be used to identify, contact, and even locate a participant at a given time, which could be a threat to their safety and welfare.

Currently, rideshare data collected by the Minnesota Department of Transportation and Metropolitan Council is classified as private data on individuals. These entities operate much like cities in that they provide publicly-funded transportation services.

On September 5, 2018, a temporary data classification was approved by the Minnesota Department of Administration to temporarily classify this data as private. However, if the Legislature does not act in the upcoming legislative session, this data will be public.

Response: **To protect the privacy of individuals using city rideshare programs, the Legislature should consistently classify rideshare data collected by a city as private data, consistent with the data classification in state law for rideshare programs provided by other governmental entities.**

DP-10. Open Meeting Law

Issue: The Open Meeting Laws allows certain meetings to be held using interactive television provided that: all members of the body can hear and see one another and all discussion and testimony; members of the public can see and hear all discussion, testimony, and votes; at least one member of the body is physically present at the regular meeting location; and each remote location is open and accessible to the public. The Minnesota Department of Administration issued an advisory opinion (13-009) that allowed a city's use of Skype to conduct a remote meeting under Minn. Stat. § 13.02, subd. 1. A "common sense" approach was applied to technology questions, which recognizes the difficulty cities must face when interpreting the Open Meeting Law in light of ever-changing technology.

The Open Meeting Law also allows certain state bodies to conduct meetings via telephone and other electronic means, pursuant to Minn. Stat. § 13D.015. This useful tool should be expanded to local

government to assure that members can attend meetings remotely if attendance at the regular meeting site is not possible. In order to ensure maximum public access, the Legislature should require that such meetings be allowed only if a quorum of members of the body is present at the regular meeting location.

The use of Facebook, Twitter, and other social media creates opportunities for cities to reach more constituents and to share more information faster than ever before. Social media creates new opportunities for citizen participation, and citizens increasingly expect that their elected officials will provide them with information via the internet and social media sites. This expectation is not always consistent with laws that require citizens to attend a meeting in order to participate in local government. The use of social medial by elected officials raises issues of compliance with laws that were drafted before social media existed, and increases the likelihood of unintentional violations. In recognition of these issues, the 2014 Legislature created a social media exemption to the Open Meeting Law, Minn. Stat. § 13D.065, which states that the use of social media by members of a public body does not violate the law so long as the use is limited to exchanges with all members of the general public.

Response: **The League of Minnesota Cities supports the Department of Administration's interpretation of the interactive television provision of the Open Meeting Law, and encourages the Legislature to authorize cities to conduct official meetings by telephone or other electronic means, as allowed by Minn. Stat. § 13D.015, provided that a quorum of members are present at the regular meeting site.**

The League supports the 2014 change to the Open Meeting Law, which grants cities and elected officials reasonable flexibility to use social media to communicate with citizens while maintaining the protections of the Open Meeting Law.

The League opposes any change to the open meeting law that would expand the award of attorney's fees to unintentional violations.

DP-11. Exceptions to the Open Meeting Law

Issue: The purpose of the Open Meeting Law generally requires that all meetings of public bodies must be open to the public. This presumption of openness serves three vital purposes: it prohibits actions from being taken at secret meetings, to assure the public's right to be fully informed, and to afford the public an opportunity to present views to the public body. The League of Minnesota Cities supports the Open Meeting Law, and recognizes the important role it plays in maintaining the public trust and the accountability of elected officials.

The Open Meeting Law must, however, balance the need for public information and the need to protect privacy rights and certain negotiation strategies to protect the use of public resources. Currently, there are seven exceptions to the open meeting laws that authorize the closure of meeting to the public. Under these exceptions, some meetings may be closed at the discretion of the governing body and some must be closed. Three challenges exist with current law.

The first concern is the hiring process for management level positions. While existing law allows a governing body to close a meeting to evaluate the performance of an

individual subject to its authority, the statute doesn't grant the same level of privacy for the city council and prospective applicants. The statute should allow a governing body to close a meeting to interview applicants for employment if there is a quorum present; and, to allow a governing body to close a meeting to discuss the terms of an employment agreement to offer to a candidate to whom a job offer has been extended. This would be consistent with the existing authority for the governing body can to close a meeting to discuss labor negotiations strategy. Allowing a closed meeting so that a council can discuss the results of an interview process for a management-level position will allow council members to express opinions or ask questions they may have concerns about discussing in a public meeting, and preserves the integrity of the interview process of subsequent candidates.

The second concern with existing law is the inability for public bodies to conduct strategic negotiations regarding public/private partnerships. Current law allows the public body to close a meeting to discuss the purchase or sale of property and labor negotiations but does not allow the public body to discuss terms and conditions of an agreement with private and/or non-profit organizations. The ability for public bodies to close meetings in these situations provides public bodies the opportunity to form strategies in the best financial interest of the community. Allowing public bodies to close meetings to discuss public/private partnerships would be consistent with the importance of negotiation regarding purchase or sale of property and labor contracts.

The third concern is how to include city councilmembers wanting to participate in city council meetings but are unable to due to military deployment or serious health issues. While cities want elected officials to participate in city decision-making to their fullest extent, it is also important to protect the public's right to see how government makes decisions. Currently under the interactive television exception to the Open Meeting Law in Minn. Stat. § 13D.02, subd. 1, city councilmembers can remotely participate in city council meetings if they meet certain requirements: (1) all councilmembers, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented; (2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of the members of the body; (3) at least one member of the city council is physically present at the regular meeting location; and (4) each location at which a city councilmember is present is open and accessible to the public. City councilmembers who are deployed or cannot attend city council meetings due to serious health issues are unable to meet this last requirement of making their remote location "open and accessible" to the public. Removing this last requirement in these limited situations will preserve the public's ability to hear and see all discussion, testimony, and voting by all participating councilmembers while allowing willing councilmembers to participate in city decision-making.

Response: **The Legislature should amend the Open Meeting Law:**

a) **To allow a governing body or a committee created by a governing body to close a meeting to interview candidates for management-level positions such as city manager, administrator, clerk-treasurer, city attorney, superintendent, or department head, and to close a**

meeting to evaluate and discuss the candidates, and discuss salary and benefit negotiations.

b) **To allow a governing body to close a meeting to discuss negotiation strategies for proposed contracts and/or agreements with private and/or non-profit agencies.**
c) **To allow city councilmembers to participate in city council meetings who are (1) serving in the military and are deployed, on active duty, or at a required drill or (2) cannot be in a public place for medical reasons, without making their remote location open and accessible to the public as otherwise required under Minn. Stat. § 13D.02, subd. 1.**

Such closed meetings should follow the same or similar procedures for conducting closed meetings currently required under the Open Meeting Law.

Federal Employment Law

FED-1. Consolidated Omnibus Budget Reconciliation Act (COBRA)

Issue: The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) law, which requires employers to offer continued health and dental insurance group benefits after an employee terminates, has been interpreted to apply to Employee Assistance Programs (EAPs). The application of COBRA benefits to these programs results in unlikely and impractical outcomes.

Response: **Congress should clarify the intended benefits to which COBRA law should apply, excluding EAP programs.**

FED-2. Flexible Spending Accounts

Issue: Health care costs are rising dramatically and employees need financial relief. Flexible spending accounts provide some relief, but the current "use it or lose it" provision for medical spending discourages employees from participating in this program. In addition, the $5000 annual maximum limit on dependent care accounts has not increased substantially since the program's inception in 1986 and childcare costs continue to rise significantly. According to 2012 data from the Pew Research Center, Minnesota has one of the highest childcare costs in the country with an average cost of $12,000 to $15,000 for infant care per year.

Response: **The League of Minnesota Cities supports legislation that would allow employees to roll unused funds over to the next plan year, or into a tax-qualified retirement plan, or a 457 plan. The League of Minnesota Cities also supports an increase in the annual maximum allowed for dependent care accounts, with a cost of living inflationary increase each year after the initial adjustment.**

FED-3. IRS Regulations on Death Benefits

Issue: Current IRS regulations do not allow any type of death benefit to be included in a post-employment health savings plan and other tax-free funding vehicles. If the employee who owns the savings plan account dies, he or she cannot leave the remaining funds to a designated beneficiary (unless the beneficiary is a spouse or dependent child). If the employee does not have a spouse or dependent child, the funds are typically redistributed among plan

participants. A death benefit provision is an attractive feature for many employee groups.

Response: **IRS regulations should be changed to allow post-employment health savings plans and other tax-free vehicles for both active employees and retirees to include a provision that allows the employee to designate beneficiaries in addition to spouses or children.**

FED-4. Federal Public Safety Collective Bargaining Bill

Issue: Congress is considering a bill that would require all states to establish collective bargaining procedures for all public safety employees. The bill directs the Federal Labor Relations Authority (FLRA) to determine, state by state, whether it meets the bill's requirements with regard to collective bargaining rights for public safety employees. While it appears Minnesota is likely to pass the tests set out by the bill, federal public sector lobbyists have expressed serious concern that the bill is very much open to interpretation. In addition, the bill directs the FLRA to "consider and give weight, to the maximum extent practicable, to the opinion of affected employee organizations."

Response: **The League of Minnesota Cities opposes the federal collective bargaining bill for public sector employees. Public sector collective bargaining should be left to the determination of each state.**

FED-5. Federal Health Care Reform

Issue: Certain provisions of the Patient Protection and Affordable Care Act (commonly referred to as the federal health care reform law or Affordable Care Act (ACA)) are problematic for cities. These issues range from administratively difficult to very costly. Tracking employee hours, particularly hours of seasonal and temporary employees and council members, is burdensome and will require significant administrative time and effort. Because most of these employees will not qualify for coverage under the ACA, the effort does not result in a worthwhile outcome. There are also situations where employees who are currently working more than 30 hours per week in a city will now be eligible for health care coverage by that city, which will drive up city costs significantly, particularly for cities using the "duty crew" concept at fire stations to ensure adequate daytime response. Finally, there are provisions which require the city to offer coverage to full-time students who are already covered by their parents' insurance and do not need the coverage through the city, which results in wasted effort. Furthermore, cities that provide health insurance coverage to their employees should not be subject to the federal excise or so-called Cadillac Tax, which will result in substantial costs to Minnesota taxpayers.

Response: **The League of Minnesota Cities supports the intent of the ACA to provide affordable health care coverage to all Minnesota residents. However, prior to implementation, Congress should:**

a) **Exempt employees under age 26 who are covered by their parents' insurance;**
b) **Exempt (from coverage requirements) employees who work in recreational facilities and programs owned and operated by governmental entities;**
c) **Exempt elected officials from being counted as "employees" for the purposes of the ACA; and**
d) **Revise the provisions of the federal excise "Cadillac Tax" so that it does**

not penalize employers and instead provides incentives to strengthen wellness and disease prevention effort.

IMPROVING FISCAL FUTURES

FF-1. State-Local Fiscal Relations

Issue: Since the 1970s, services provided by Minnesota cities have been largely funded through a combination of property taxes, state aids, and state property tax relief programs. This system of municipal finance has evolved to ensure that municipal services can be funded without excessive local tax burdens.

Over the past decade, the state-local partnership has vacillated with the state budget, challenging the ability of city officials to plan for the future fiscal needs of their communities.

Response: **The League of Minnesota Cities supports a strong state-local fiscal partnership. The state-local fiscal system, and any future modifications, should be consistent with the following principles:**

Accountability. **Cities believe a viable partnership with the state requires cities and the state to communicate effectively with each other and with the public about their roles and responsibilities. Cities and the state must also exercise sound financial stewardship, including maximizing efficiencies in service delivery and other means of cost containment whenever possible.**

Certainty. **Cities need to have more certainty and predictability in all of their available revenue sources, including the property tax and the amount of funding they receive from local government aid and similar programs. The current practice of almost annual adjustments to local government aid (LGA) and similar programs, recent unallotments of the appropriation and the imposition of levy limits do not allow for prudent financial planning and decisions. In addition, the 2011 state government shutdown further decreased the certainty of the system when the Department of Revenue indicated that despite the standing LGA appropriation, the shutdown of many state government operations would prevent the distribution of the LGA.**

Adequacy. **The revenue sources available to cities and the state must raise adequate funds to meet city needs, to fund mandates, and to maintain Minnesota's long-term competitiveness.**

Flexibility. **As cities become increasingly diverse in their characteristics and as existing aid and credit programs have eroded, a "one-size-fits-all" system that limits all cities to the property tax as the major, non-state aid revenue source is increasingly unworkable. Some cities have sufficient property tax base to sustain an adequate service level, but many do not. Cities should have greater access to other tax and revenue sources than currently permitted.**

Equity. **All citizens should receive adequate levels of municipal services at relatively similar levels of taxation. This means that the state should provide financial assistance to cities that have high costs, including costs related to overburden created by non-resident users of city services, low fiscal capacity, or both. State financial assistance should also reduce tax burden disparities among communities and between cities and surrounding areas.**

FF-2. Economic Contributions by Cities

Issue: Cities provide and maintain the physical infrastructure as well as the social and economic infrastructure necessary to support a large share of the state's economic activity. In addition, cities play a major role in statewide economic development activities that assist businesses with expansion and job creation. The importance of cities to the overall vitality of the state's economy is frequently overlooked in state policy discussions.

Response: **To provide lawmakers with information on the economic activity occurring within cities, the Department of Revenue should annually collect and compile information on major state tax collections within each city, in addition to county and regional reports.**

FF-3. State Budget Stability

Issue: In recent years, the Legislature has faced repeated budget deficits. Legislative actions to address these deficits have included permanent reductions in funding to local units of government for programs such as local government aid as well as the full elimination of programs such as the market value homestead credit. In addition, the Legislature has frequently relied on short-term solutions that have only shifted a large share of the deficit problem into the next biennium. These actions merely shift state budget problems to local units of government without permanently addressing the state budget problems.

The legislature has taken steps to reduce state budget volatility. As required under state law, 33 percent of any state general fund budget surplus identified in the November state budget forecast must be directed to the state budget reserve until the account reaches a targeted level.

Response: **To increase the stability of the state budget and avoid or reduce the impact of future state budget deficits, the Legislature:**

a) Must consider all options, including revenue increases, with a particular focus on changes that increase state revenues and improve the stability of the state's revenue stream;
b) Must not further reduce funding for property tax relief programs to cities;
c) Must not accelerate the remittance of sales tax collections by retailers including municipal liquor operations, and should make steps to reverse past accelerations;
d) Must consider the aggregate impact on Minnesota taxpayers of previous budget cuts and tax increases;
e) Must reinstate estimates of inflationary increases to expenditure estimates;
f) Should continue to build at a minimum, a five-percent budget reserve and should establish state budget stability as a state priority. This includes prioritizing state budget stability ahead of sending back tax rebate checks as was done in 2000;
g) Should modify the unallotment statute to place a reasonable statutory limit on the percentage and timing of the state's budget that can be unallotted during a biennium without legislative approval; and
h) Must emphasize long-term budget solutions and budget stability and the continuation of both state and local government operations.
i) The League of Minnesota Cities supports the principle of representative democracy and opposes limiting the Legislature's flexibility in

making financial decisions through new Constitutional amendments.

FF-4. Funding Local Government Aid

Issue: Local government aid (LGA) is an important component in the state's property tax relief system, and a critical tool to help equalize tax base to ensure needs for public services can be met. To avoid undue pressure on the property tax, funding for LGA must keep pace with inflationary pressures. Since 2013, the legislature has restored a total of $107 million in funding for LGA and updated the formula to reflect recent fiscal and demographic data. For 2018 and beyond, the LGA appropriation is frozen at $534.4 million. For 2019, the total unmet formula need (the difference between need and ability to raise revenue) is $814.6 million, leaving the current appropriation $280.2 million below the total unmet need.

During the 2017-18 biennium, several bills were introduced that would have, for example, created offsets to a city's LGA distribution if the city imposed a local sales tax, spent funds for activities related to lobbying or a World's Fair, or would have reduced or eliminated LGA if the city enacted ordinances to ban plastic bags, impose certain local labor laws, ordinances, or policies that restrict city employees from enforcing immigration laws, unauthorized ordinances related to diversion programs. Such changes would have been a significant deviation from the practice of using the formula to distribute LGA and could have jeopardized the long-term stability of the program.

Currently, LGA payments are made to cities on July 20 and December 26 each year. This distribution occurs late in the city fiscal year and can create short-term cash flow challenges for some cities. In 2017the Legislature included a one-time acceleration that will distribute 14.6 percent of each city's 2019 LGA in June.

Response: **In order to reduce pressure on the property tax, and to equalize property tax bases, the League of Minnesota Cities continues to support the existing LGA formula as the appropriate mechanism to distribute LGA resources and opposes artificial limits on any city or group of cities. In addition, the League supports an increase in the LGA appropriation to at least the level that would have been provided prior to the 2003 cuts, including the restoration of the annual inflation adjustment and ongoing appropriation increases to the LGA formula to move toward funding the total unmet need of all cities. The League also supports an acceleration of the annual LGA distribution to assist cities with cash flow needs. Increases to the LGA appropriation should be distributed based on the formula. The League opposes targeted reductions to specific cities as well as reductions or offsets for local policy or expenditure decisions.**

The legislature should avoid creating side-pots or special appropriations through the LGA (Minn. Stat. ch. 477A) program. If special circumstances such as a natural disaster warrant additional state assistance to specific cities, the criteria for the additional aid should be specifically enumerated and the appropriation should be separate and in addition to the appropriation through the general LGA formula.

FF-5. State Charges for Administrative Services

Issue: Currently, some state agencies have wide discretion in setting the fees for special services they provide to local governments.

Response: **State agencies should be required to justify their service fees or for increases in existing service fees and not charge more than what is fair, reasonable, and proportionate to the cost of service. Agencies should give adequate notice of increases to allow local governments to budget for the increases. State agencies should set administrative service fees as close as possible to the marginal cost of providing the service. Local government should be given the option to self-administer or contract with the private sector for the service if the state cannot provide the service at a reasonable cost.**

FF-6. Reporting Requirements

Issue: Budget and financial reporting requirements imposed on cities by the state often result in duplication and additional costs. In addition to the state mandated annual audits under Minn. Stat. §§ 471.697-.698, cities are required to prepare and submit or publish numerous other budget and financial reports including but not limited to:

a) Summary budget reports (Minn. Stat. § 6.745);
b) Treasurers report to the city clerk (Minn. Stat. § 412.141);
c) Statement of tax collections and other income by clerk to the city council (Minn. Stat. § 471.69);
d) Report on outstanding obligations and the purpose for each issue filed with the county auditor (Minn. Stat. § 471.70);
e) Publication of summary budget statement (Minn. Stat. § 471.6965);
f) Publication of statement of liquor store operations (Minn. Stat. § 477A.017);
g) Liquor store audited financial statements (Minn. Stat. § 471.6985);
h) TIF district plan and amendments (Minn. Stat. § 469.175, subd. 4a);
i) TIF district annual disclosure (Minn. Stat. § 469.175, subd. 5);
j) TIF district annual financial report (Minn. Stat. § 469.175, subd. 6);
k) Business subsidy reporting (Minn. Stat. §§ 116J.993-.995);
l) State required financial activity reports (Minn. Stat. § 6.74);
m) Local improvement requirements (Minn. Stat. § 429.031);
n) Development and permit fees report (Minn. Stat. § 326B.145);
o) Utility annual financial statements (Minn. Stat. § 412.381);
p) Housing and redevelopment authority annual financial report (Minn. Stat. § 469.013); and
q) Federal single audit or a program-specific audit (31 U.S.C. § 7502 (a)(1)).

Many cities have expanded the availability of information on their web sites in response to citizen requests and some cities have begun using new tools to assist citizens in understanding the city budget. Expanding state mandated financial reporting requirements could force cities to redirect scarce resources to the state mandate and stifle innovative ways to communicate with citizens.

Response: **Requirements for reporting and advertising financial and budget information should be carefully weighed to balance the need for information with the administrative costs of compiling and submitting this information. In addition, the legislature should direct all state agencies to review existing local government reporting mandates and eliminate redundant or superfluous requirements. To this point, the legislature should consolidate municipal government financial reporting requirements in the Office of State Auditor, include an electronic submission alternative to any remaining paper filing**

requirements and authorize the use of web publication where newspaper publication is currently required.

Finally, the legislature must not increase reporting burdens for local units of government. Any new reporting requirement should have a clearly defined statement of purpose and public need not currently met with existing reports, a sunset date to facilitate a future discussion of the usefulness of the requirement as well as full state funding for the costs associated with a new reporting mandate.

FF-7. Direct Property Tax Relief Programs

Issue: In 2013, the legislature expanded the homeowner property tax refund (PTR) program and renamed it the Homestead Credit Refund program. As a direct taxpayer relief program, the Homestead Credit Refund avoids the problems with the former Market Value Homestead Credit system where the state provided a credit on the homeowner's property tax statement but did not always reimburse cities and counties for the amount of the credit.

Response: **The League of Minnesota Cities supports providing additional, direct property tax relief through an expansion of the Homestead Credit Refund program, the renters' refund program, the targeting program or other programs that provide property tax relief directly from the state to taxpayers. In addition, the League supports the 2013 legislation that requires the Department of Revenue to notify potentially eligible homeowners of the program and would also support legislative modifications to these programs to eliminate the taxpayer filing requirement thereby making the tax relief payments automatic.**

The League opposes property tax credit programs that reimburse local units of government for reduced tax burden such as the former market value homestead credit system due to the fact that the reimbursements to local units of government can be cut while the credit to the taxpayer remains on the property tax statement. In addition, the League opposes reinstituting Limited Market Value, a program that reduces the taxable value of individual properties based on assessor's valuation increase. Limited Market Value creates inequities between similar properties based solely on the valuation increase determined by the assessor.

FF-8. Sales Tax on Local Government Purchases

Issue: The local government sales tax exemption enacted in 2013 and expanded in 2014 does not apply to all city purchases. Some purchases for municipal enterprise operations, such as liquor stores and golf courses are excluded from the exemption. In addition, in order to receive the sales tax exemption on construction materials under current law, cities must bid labor and materials separately and also designate a contractor to be a purchasing agent on behalf of the city. The existing Department of Revenue rules (Minnesota Rules 8130.1200, subp. 3) are complex and the implementation can be so complicated that it can cost cities more money to implement than they will save on the tax exemption. Finally, although cities currently do not pay the motor vehicle sales tax on marked police vehicles or firefighting vehicles, other city vehicles are not exempt from the motor vehicle sales tax.

Response: **In order to ensure that taxpayers receive the full benefit of the local government sales tax exemption:**

a) **The exemption should apply to all purchases made by local units of government;**
b) **The process to receive the exemption for construction materials should be simplified or converted into a refund process; and**
c) **The exemption should be extended to all local government purchases that would otherwise be subject to the motor vehicle sales tax in Minn. Stat. ch. 297B.**

FF-9. Taxation of Electronic Commerce

Issue: The 2018 U.S. Supreme Court decision, *South Dakota v. Wayfair, Inc.*, 585 U.S. ___ (2018), overturned two earlier Supreme Court decisions, *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) and *National Bellas Hess v. Department of Revenue*, 386 U.S. 753 (1967), that had prevented states from requiring retailers without a physical presence from collecting state and local sales taxes on purchases made by state residents and businesses.

A group of 23 states participating in the Streamlined Sales Tax Project have worked together for more than 18 years to simplify the administration of state and local sales taxes and reduce the administrative burden on retailers. The success of this project was referenced in the *Wayfair* decision.

Despite the Supreme Court's *Wayfair* decision, new legal challenges could be filed by remote retailers or Congress could intervene to address remaining sales tax administration issues including the fact that more than 20 states with sales taxes have not adopted the SSUTP standards.

Response: **Federal tax policy should not place main street businesses at a competitive disadvantage to electronic retailers, must not jeopardize repayment of bonds backed by state and local sales tax revenues, and should ensure stability in state and local revenues. To address the challenges created by the growth of electronic commerce, the League of Minnesota Cities continues to support the multi-state effort to develop a streamlined sales tax system.**

Should Congress intervene, the League would support nation-wide sales tax administration standards based on the model developed by the Streamlined Sales Tax Project. The League will oppose Congressional efforts to reverse remote retailer collection requirements.

FF-10. Local Lodging Taxes

Issue: In 2011, the legislature amended Minn. Stat. § 297A.61 to define accommodation intermediaries and clarified that their services are subject to the state sales tax as part of the tax imposed on lodging. Local lodging taxes collected by the state for local units of government under Minn. Stat. § 469.190, subd. 7, also clearly apply to services provided by these accommodation intermediaries since these taxes are required under Minn. Stat. § 270C.171 to use the definition for tax base contained in the general sales tax statute.

Since 2011, some accommodation intermediaries have not been collecting and remitting locally-administered lodging taxes based on the full cost of the accommodation plus the accommodation intermediary services. There are currently 120 cities and towns that individually or jointly impose lodging taxes for tourism purposes under Minn. Stat. § 469.190. Another five cities impose a lodging tax that is administered locally under special law. Four local lodging taxes are currently administered by the state.

Response: **The League of Minnesota Cities supports legislation that will clarify that all lodging taxes, whether administered by the state or administered locally, apply to the total charges to the customer, including charges for services provided by accommodation intermediaries.**

FF-11. Taxation of Electric Generation Personal Property

Issue: Investor-owned utilities (IOUs) have a longstanding relationship with Minnesota cities. IOUs site baseload power plants in host communities, and in exchange pay personal property tax on attached generation machinery to the cities, counties and school districts hosting the plants. These plants bring jobs to our communities, but they also create nuisances such as air pollution, nuclear waste, noise, vibration, and coal train traffic. They also create security risks and take up land that could be used for other, less disruptive commercial and industrial development. Cities believe personal property taxes paid by IOUs are a fair compensation for the environmental and economic costs of hosting baseload power plants.

IOUs argue that personal property tax relief is important to pass along to their shareholders and ratepayers. However, only a few IOU shareholders and ratepayers actually live in the communities hosting baseload power plants. Further, almost all new power plants receive personal property tax exemptions from the Legislature, while host communities with existing, non-exempt baseload plants will continue to have them for decades to come.

Currently the taxation of electric generation personal property represents the best method for reimbursing host communities for the cost of hosting IOUs. However, a 2015 MN Department of Revenue study on electric generation taxation has generated proposals to change the state system of taxing electric generation which raise equal or greater revenues for host cities.

Response: **Personal property taxes on attached electric generation machinery are a fair way to spread the environmental and economic costs of electric generation power plants among all IOU shareholders and ratepayers. The League of Minnesota Cities supports the continuation of personal property taxes paid by IOUs to host communities for existing and new facilities or a tax system which generates equal or greater revenue for host communities. As the Department of Revenue analyzes methods of utility taxation in its Study of Electric Energy Producing Systems (Session Law 2014, Chapter 308), the League supports the inclusion of these environmental and economic costs in assessing the appropriate property taxes paid to host cities by electric generation facilities.**

FF-12. Electric Generation Taxation Reform

Issue: Currently, electric utilities are subject to a personal property tax on personal property which is part of an electric generating, transmission, or distribution system. This tax has a number of exemptions and exclusions which make a patchwork of taxation statewide. The Department of Revenue issued a report on February 15, 2015 which laid out the details of this tax system, stating, "The utility tax base comprised of these energy producing facilities is not predictable. The unpredictability is a result of law and rule changes that determine the amount of utility tax base available for host communities."

Cities which host Investor Owned Utility base load power plants have faced unpredictability in tax base from both changes to state law regarding the personal property tax on electric generation equipment and from changes in valuation due to the upgrade/depreciation cycle of equipment.

The Minnesota Legislature has introduced a reform to the system of taxing electric generation. It repeals the personal property tax and all of its exclusions and exemptions, and replaces it with an "electric generation tax base" which is subject to local property taxes. This proposal also repeals the personal property tax on transmission and distribution and creates a "Valuation for Electric Transmission Line Tax Base," a "Valuation for Electric Substation Tax Base" and an "Electric Distribution Line Tax Base."

The proposal defines the tax base for electric generation in a new way for electric generation plants which use coal, oil, natural gas, nuclear fission, biomass and flowing water to generate electricity. Under the proposal, the Department of Revenue would annually assess the tax base of electric generation machinery under a set of statutory formulas. The new valuation which replaces the value of electric generating equipment is based on a combination of an individual facility's nameplate capacity, average energy production and amount of nuclear waste storage.

The proposal also replaces the taxable value of electric transmission and distribution with statutory formulas. The Department of Revenue would assess the value of the "electric transmission line tax base" according to the number of miles of electric transmission within the taxing jurisdiction, the value of the "electric substation tax base according to the sum of the capacity of a substation, and the value of the "electric distribution line tax base" according to the number of customers in the taxing jurisdiction that receives an electric distribution.

These new tax bases define the value for purposes of the ad valorem tax of hosting jurisdictions.

Factors such as inflation affect the expenses of host cities, so any proposal to change the system of taxing electric generation should account for changes in value over time, using an independently reported adjustment factor for changing values over time.

Statutory changes to the system of electric generation taxation should not adversely affect host city tax revenues. Any proposal to change the system must include some form of replacement aid which compensates cities for adverse effects due to changing state law on electric generation taxation.

Response: **The personal property tax on electric generation equipment as well as the exemptions, exclusions and sliding scales to that tax represent a patchwork of taxation rules statewide. Changes to state law which replace the personal property tax on electric generation equipment with a tax base valuation based on electric generation capacity, production, nuclear storage, transmission, and distribution will benefit IOU host cities so long as the change comes with a factor to increase the tax base valuation over time and reimbursement to cities for revenues lost due to a change in state law.**

FF-13. Support for Transitioning Communities

Issue: Technological advancements and market forces are rapidly changing the electric generation industry. Investor-owned

utilities (IOUs) in Minnesota are increasing the share of their electric generation portfolios that are made up of renewable generation sources like wind and solar, while planning to decrease the share of electric generation that is derived from baseload power plants that produce energy from coal or nuclear sources. Due to the deep and longstanding relationship IOUs have with some Minnesota cities, the possible retirement of these power plants stands to have a significant disruptive effect on these cities.

Cities that host baseload power plants make significant investments to support those plants, including infrastructure, public safety, and disaster preparedness. To compensate for this, IOUs pay personal property tax on electric generation machinery. For some cities, these revenues can account for over 50% of the city's annual budget. Moreover, IOUs have other significant direct and indirect impacts on host communities. IOUs tend to employ significant numbers of employees at baseload power plants. Those employees are likely to live, work, attend school, and shop in and around the local community. Therefore, the retirement of these plants would have significant negative impacts on these communities.

While the power that is generated at these facilities goes to support the entire state of Minnesota, the impacts of hosting these plants is felt most acutely in these local communities. Therefore, state lawmakers should partner with these communities and support their transition in the event that these baseload power plants are retired by the IOUs.

Response: **The League of Minnesota Cities recognizes that the energy landscape is rapidly changing and supports state policies to replace tax base in communities facing the closure of a baseload power plant, as well as other policies or programs to help those communities replace their local tax base through economic development. The League of Minnesota Cities also support efforts by the state legislature to study, analyze, and design policy solutions to address the unique challenges these communities face.**

FF-14. Taxation of Municipal Bond Interest

Issue: The federal and state laws that grant a tax exemption to bondholders for municipal bond interest lowers borrowing costs for cities and reduces property tax levies. Recent proposed Internal Revenue Service rules would potentially restrict some local government entities such as housing and redevelopment authorities, economic development authorities and port authorities from issuing tax exempt bonds.

Response: **Congress and the state should maintain the tax exemption for municipal bond interest income. Congress should also clarify the law to supersede proposed IRS rules and thereby continue to allow housing and redevelopment authorities, economic development authorities and port authorities to issue tax exempt debt.**

FF-15. Pollution Control Exemption

Issue: Minnesota grants electric utilities and several other industries a property tax exemption for personal and real property that is primarily used for pollution control. Minnesota adopted the property tax exemption that now extends to electrical generation systems, agricultural operations, and wastewater treatment facilities in 1967, before water and air pollution were heavily

regulated by the Environmental Protection Agency and the Minnesota Pollution Control Agency. The language and the purpose of these statutes have evolved through the years. When states first began adopting these tax incentives in the 1960s, they hoped to encourage utilities, industrial plants, and others to install pollution control equipment. Gradually, as regulation increased, states adopted the exemptions to help companies offset the cost of the equipment.

This tax benefit erodes local tax bases. In 2013, more than $1.8 billion of personal and real property for electrical generation was exempted from the market value of utilities. The incentive value of this benefit is low because utility companies are required to install the equipment anyway. In addition, these companies frequently recover the cost of the equipment through rate riders granted by the Public Utilities Commission. Allowing the pollution control equipment exemption places the cost of this equipment on the citizens of the host community, rather than the purchasers of electricity.

Response: **The pollution control exemption places an undue burden on host communities without incentivizing the environmentally responsible behavior that it was originally created to encourage. The League of Minnesota Cities supports narrowing or eliminating the pollution control equipment exemption for investor owned electric generation facilities. The League would also support allowing utilities to continue to recover their costs relating to the pollution control equipment by spreading those costs to electricity users.**

FF-16. Local Elected Officials Authority to Establish Local Budgets

Issue: In 2015, the House omnibus tax bill included a reverse referendum provision that would allow a small number of voters (ten percent of those voting in the last general election) to petition for a referendum on a general city property tax levy increase. The outcome of the election could reverse the decision of the local elected officials on the local budget and property tax levy after months of planning and public hearings.

As recently as the 2013 legislative session, the legislature imposed levy limits on cities over 2,500 population for one year. Levy limits replace local accountability with a state judgment about the appropriate level of local taxation and local services. Additionally, state restrictions on local budgets can have a negative effect on a city's bond rating due to the restriction on revenue flexibility.

Levy limits also fail to account for the decertification of tax increment financing districts. Upon decertification, the property taxes that were formerly collected and used to support the public improvements in the TIF district can no longer be collected at the same rate and used to support ongoing general city operations.

Response: **Local elected officials are elected to make decisions about local budgets and meeting community needs. The League finds that it is inappropriate for the Legislature to undermine local elected officials' decision-making and accountability through the continued imposition of levy limits or by enacting proposals such as a reverse referendum requirement or the "taxpayers' bill of rights." The League of Minnesota Cities**

supports the principle of representative democracy that allows local elected officials to formulate local budgets without state or other restrictions.

FF-17. Tax Hearing and Notification Process

Issue: Cities must set a preliminary levy by September 30, which is the levy used to compute the parcel-specific property tax notification forms. With only a few limited exemptions (e.g., voter-approved levies, levies for natural disasters and levies for certain tort judgments), this preliminary levy, by law, becomes the maximum that cities can levy the following year. As a result, cities may be unable to budget for unforeseen needs that arise after September 30.

The 2009 Legislature eliminated the separate tax hearing requirement and replaced it with a requirement that the public be allowed to speak at a regularly scheduled meeting on the budget and tax levy. These changes erroneously repealed an exception to the tax hearing and notification process for cities adopting their levies at or less than the current rate of inflation.

With the major property tax changes enacted by the Legislature in 2011, city officials have found it difficult to explain to local taxpayers not only the effects of their budget and levy decisions but also the separate effects of the actions of the state Legislature. The 2017 Legislature moved the proposed levy certification date for most instrumentalities of local governments and special taxing districts from September 15th to September 30th.

Response: **Cities should have the authority to increase the final levy from the preliminary levy with the approval of the commissioner of the Department of Revenue, to meet additional, unforeseen and uncontrollable needs, including arbitrator awards resulting from labor negotiations, the impact of new and existing federal or state mandates including administrative rules, or other non-discretionary budget factors.**

The tax hearing and notification law should be carefully reviewed to assure that the legislative intent is reflected in the statutes.

Specifically, the League of Minnesota Cities supports the following:

a) **Modifying Minn. Stat. § 275.065 to clearly and fully exclude cities of population 500 and under from the budget and levy hearing requirements;**
b) **Reinstating the exception to the tax hearing and notification requirements for cities with more than 500 residents with a proposed levy increase below the implicit price deflator (IPD); and**

In order to assist local officials with the challenge of explaining legislative changes to the property tax system, legislators should attend and be encouraged to participate in local government budget hearings in their districts.

FF-18. General Election Requirement for Ballot Questions

Issue: Under current state law, when cities are required to seek voter approval on a ballot question or where statutes allow voters to petition for an election on a council action (reverse referendum), these referenda can generally be held at a general or special election. This flexibility allows cities to respond to local circumstances in a timely manner.

During the 2015 legislative session, the House omnibus tax bill included language that would have required referenda on most ballot questions be restricted to the November general election. If enacted, this requirement could limit the ability of cities to respond to unanticipated events or to undertake projects in a timely and cost-efficient manner.

Response: **Cities should be allowed to conduct elections on ballot questions at a date and time set by the city council and that complies with existing election notification statutes.**

FF-19. Municipal Liquor Store Continuation

Issue: Under Minn. Stat. § 340A.602, any city where a municipal liquor store reports a net loss prior to interfund transfer in any two of three consecutive years, must hold a public hearing to discuss whether the city continues the operation of the liquor store. After the hearing, the city council, or the voters by petition, can require a vote on whether to continue the liquor store operations.

Under recent financial accounting changes required by the Government Accounting Standards Board (GASB), local government employers are required to acknowledge unfunded pension liabilities in their financial reporting. This long-term liability can significantly fluctuate from year-to-year and result in an otherwise profitable municipal liquor store operation being required to conduct a hearing on the continuation of operations.

Response: **The net loss test under Minn. Stat. § 340A.602 should be amended to exclude pension liabilities under the Government Accountings Standards Board Statement No. 68.**

FF-20. City Fund Balances

Issue: As a component of a prudent financial management plan, cities maintain a fund balance composed of cash flow funds, savings for projects, and rainy day reserves to maintain high level bond ratings and to minimize borrowing costs. Although the size of a city's fund balance should be determined through local financial needs and local preferences, some cities are being criticized for maintaining "excessive" reserves.

The Office of the State Auditor (OSA) report measures city fund balances on December 31, shortly after the city receives its largest sources of revenue from the property tax and state aid distributions. Measuring at this time, however, yields a picture of a high fund balance even though the city will spend down these funds to cash flow the next five to six months of its operations.

Response: **The state should respect local decisions on adequacy of local fund balances. The League of Minnesota Cities opposes any attempt to divert local reserves to benefit the state budget.**

FF-21. Local Option Sales Tax and City Revenue Diversification

Issue: Under current state law, the property tax is the only generally accessible form of local tax revenue for cities. Even with the restoration of $107 million in LGA funding since 2013, state aid funding remains below the 2002 funding level. Allowing cities to diversify their revenue stream would help prevent rapid additional future reliance on the property tax.

The basic public finance rationale for diversification of local tax systems is rooted in the fact that economists generally agree

that there is no perfect tax. Each tax has unique strengths and weaknesses and the more intensively any single tax type is used, the more obvious its shortcomings become. For example, the property tax is generally regarded as being very stable throughout the economic cycle and it is considered to be a relatively easy tax to administer and enforce. However, when property tax burdens become too high, there may be negative consequences for other public policy objectives such as business development and home ownership.

In addition to avoiding the problems created by excessive reliance on any single tax, a balanced and diversified revenue system for Minnesota cities may create a more favorable business climate and provide for greater stability of revenues to the recipient government unit throughout the course of the economic cycle.

Under Minn. Stat. § 297A.99, the Legislature has created a set of local sales tax rules and a defined process by which cities and other political subdivisions can impose a general local option sales tax. Although the statutory process requires the city council to adopt a resolution supporting the local sales tax and also requires the city to seek voter approval of the sales tax at a general election, the process continues to require the final authorization of the local sales tax by the Legislature through the passage of a special law. In 2017, the legislature granted local sales tax authority to seven additional cities.

Response: **Cities should be able to diversify their sources of revenues. The League of Minnesota Cities continues to support a statutory change that will allow a city to enact a local sales tax for public improvements and capital replacement costs, including but not limited to those specified in the 2017 legislation:**

a) Convention or civic centers;
b) Public libraries;
c) Parks, trails, and recreational facilities;
d) Overpasses, arterial and collector roads, or bridges, on, adjacent to, or connecting to a Minnesota state highway;
e) Railroad overpasses or crossing safety improvements;
f) Transportation infrastructure improvements, including construction, repair of roadways, bridges and airports;
g) Flood control and protection;
h) Water quality projects to address groundwater and drinking water pollution problems;
i) Court facilities;
j) Fire, law enforcement, or public safety facilities; or
k) Municipal buildings.

Local sales taxes would follow the process outlined in Minn. Stat. § 297A.99 but without the need for the approval by the Legislature and governor through the passage of special legislation. The League supports allowing the referendum to be conducted at either a general or a special election.

State law should also be modified to generally authorize any city to impose other types of taxes such as a local payroll tax or an entertainment tax with the adoption of a supporting resolution by the city council and after approval by the voters at a general or special election.

In addition, Minn. Stat. § 469.190 should amended to allow cities to impose up to a five percent local lodging tax and to allow cities to modify the uses of their local lodging tax revenues to meet local needs. Cities should also have general authority to create utilities, similar to the storm

sewer utility authority, in order to fund local services where benefit or usage of the service can be measured.

FF-22. City Franchise Authority

Issue: Under Minn. Stat. ch. 216B and Minn. Stat. § 301B.01, a city may require a public utility furnishing gas or electric utility services or occupying streets, highways or other public property within a municipality to obtain a franchise to operate within the community. In addition, cable system operators are required to obtain a franchise under Minn. Stat. ch. 238.

Under a franchise, the city may require the utility to pay a fee to the municipality to raise revenue or to defray increased municipal costs, such as maintenance and reconstruction costs, accruing as a result of utility operations, or both.

State law currently allows the franchise fee to be based upon gross operating revenues or gross earnings of the utility from its operations in the municipality. In this manner, all utility users within the municipality contribute to the public costs associated with the utility operation. In the absence of franchise fees, municipal costs resulting from utility operations are currently being funded by property tax payers.

Many cities also have policies related to utility company services and products that could be supported under conditions of a franchise agreement, such as local renewable energy and energy efficiency programs. Current statutes do not explicitly provide city authority to include those types of performance conditions in a franchise agreement.

Under current law, cities are permitted to engage citizens when discussing a new or renewed franchise fee arrangement in the manner that best fits the community. A recent legislative proposal would have added a prescriptive notification and reverse referendum requirement to the process of imposing or renewing a franchise agreement with a gas or an electric utility.

Response: **Municipal authority to collect franchise fee revenues from utilities is an important and equitable mechanism to offset the costs of maintaining public right-of-way and to generate a return on a publicly held asset. Municipal franchise authority must be preserved and should be expanded to allow city policy priorities to be addressed through conditions in franchise agreements that have the cost covered by local ratepayers, where appropriate, and can be accomplished within the local franchise boundaries. The League opposes adding a one-size-fits-all notification requirement and a reverse referendum procedure to the gas and electric franchise fee process. In addition, in situations where a local provider decides to sell their operations, the city must have the right of first refusal to purchase the assets of the utility.**

FF-23. Utility Valuation Transition Aid

Issue: In 2007, the Minnesota Department of Revenue revised its rules regarding the valuation of electric and natural gas utility property. This change in the rules resulted in valuation changes for utility property that dramatically reduced the amount of revenue that local governments will collect in property tax from these utilities.

Recognizing that the communities that host these utilities bear extraordinary burdens connected with stress on local infrastructure, public safety, and public nuisance due to the presence of these facilities in their

communities, the Legislature created the Utility Valuation Transition Aid program. This program compensates host communities that have lost more than 4 percent of their net tax capacity as a result of Department of Revenue's rule changes.

Currently the taxation of electric generation personal property represents the best method for reimbursing host communities for the cost of hosting IOUs. However, a 2015 MN Department of Revenue study on electric generation taxation has generated proposals to change the state system of taxing electric generation which raise equal or greater revenues for host cities.

Response: **The League of Minnesota Cities supports the continuation of the Utility Valuation Transition Aid program and opposes any efforts to change statutory language or to divert promised funds away from host communities for any purpose unless statutory language replaces promised funds with equal or greater revenue to host communities. If the Legislature does determine that it is necessary to re-allocate the funds in the Utility Valuation Transition Aid program for another purpose, the League supports other legislative efforts that would compensate the host communities for the economic and environmental costs of hosting these facilities through reimbursement from the investor owned utilities. These other efforts could include, but are not limited to, increasing the class rate on utility property to the extent that it would offset the negative effects of the utility valuation rule change.**

FF-24. State Assistance for Property Tax Refunds for State-Assessed Property

Issue: State law requires certain property, including pipelines, railroad, utility property be assessed for property taxation purposes by the Minnesota Department of Revenue. When companies challenge the valuation of these properties, local units of government may be required to refund excess taxes, which in some cases, can create financial hardship for local units of government and their taxpayers.

Response: **The state should establish a program to provide financial compensation to all units of local government for court ordered property tax refunds where the state has determined values.**

FF-25. Transition for Property Acquired by Tax-Exempt Entities

Issue: When an existing taxable property is acquired by a tax-exempt entity other than a city or a city development authority or otherwise becomes tax exempt and removed from the tax base, the taxes formerly paid by the property owner are shifted to other, remaining taxable properties within the jurisdiction. When the acquired property is a large percentage of the tax base of a city or other local unit of government, the shift in taxes can be substantial.

Response: **To avoid immediate, large tax burden shifts when an existing taxable property is acquired by an entity qualifying for a Minnesota property tax exemption other than a city or a city development authority or overwise becomes tax exempt, state law should require the new owner to continue to pay the property taxes with a five-year phase-out of taxable value or the state legislature should create a program that provides a state-paid transition aid paid over a period of time to local units of government that experience tax exempt acquisitions, paid over a period of time.**

FF-26. Payments for Services to Tax-Exempt Property

Issue: Taxable property in many cities is being acquired by nonprofit and government entities. Converting the property to tax-exempt status can lead to serious tax base erosion without any corresponding reduction in the service needs created by the property.

In 2013, legislation was introduced that would have broadly exempted non-profit property from paying user fees or service charges for any service funded in part with property taxes over the previous five years. Under certain circumstances, this proposal could have potentially exempted non-profits from paying for even utility charges.

Response: **Cities should have the authority to collect payments from statutorily-exempt property owners to cover costs of service similar to the authority provided under the special assessment law. The League of Minnesota Cities opposes legislation that would exempt non-profits from paying for user fees and service charges that help fund services these organizations use.**

FF-27. Fire Protection Districts

Issue: Fire protection districts have the potential to reduce duplication of equipment purchases and services, and to improve uniformity of service delivery throughout a region. One obstacle to establishing fire protection districts is the absence of statutory authority to establish fire taxing districts. The Legislature has granted authority for special taxing districts to provide services such as watershed management and emergency medical services. Despite growing funding and fire protection staffing challenges, this authority does not currently exist for providing fire protection services.

Response: **The League of Minnesota Cities recognizes that some regions of the state could sustain or improve fire protection services if fire protection districts were authorized. The League supports authority for local units of government to establish fire protection districts provided that 1) participation in a district is a local decision, and 2) fire taxing districts must be governed by elected officials representing the participating entities. With elected local official participation, state-imposed levy limits on fire protection districts are unnecessary.**

FF-28. Housing Improvement Areas and Special Service Districts Petitioned by Business

Issue: In 1996, cities were granted general authority under Minn. Stat. §§ 428A.11-.21 to use Housing Improvement Areas (HIAs) in order to finance housing improvements for condominium and townhome complexes. Several cities around the state have used this tool, and found it to be a useful mechanism for maintaining older association homes.

The 2013 Legislature also granted HIA authority to a county Community Development Authority (CDA). As part of that authority, the CDA is required to gather local approval before creating an HIA.

In 1996, the Legislature also gave cities the general authority to create Special Service Districts (SSDs) under Minn. Stat. §§ 428A.01-.101. Cities around the state have used this tool to provide an increased level of service to commercial or industrial areas, commonly in areas of retail concentration. SSDs are established at the request of local businesses, who ultimately pay for and benefit from the increased level of service. A SSD may be established

anywhere in a city but only business property (i.e. commercial, industrial, utility, or land zoned for commercial or industrial use) will be subject to the service charge. Some special services have included street and sidewalk cleaning, snow and ice removal, lighting, signage, parking, parking enforcement, marketing and promotion, landscaping, and security. A SSD may be established only by petition and the city adopts an ordinance to establish it. Minn. Stat. §§ 428A.09-10 establishes procedures for the business owners in the SSD to veto or end the SSD. The 2013 legislature extended the sunset for both tools for 15 years, making it set to expire on June 30, 2028. In 2017, the House considered legislation that was ultimately unsuccessful to repeal the general SSD authority for cities. There are currently over 15 cities that have established SSDs around the state.

As cities work to develop and/or redevelop commercial, industrial, and residential areas, new ways of paying for and providing increased levels of service should be available to local entities. Use of Special Service Districts in mixed-use development is one tool that could be available for this purpose.

Response: **The Legislature should give cities permanent authority to create HIAs and SSDs. The League of Minnesota Cities supports the authority for cities to work with their business communities to establish SSDs and opposes efforts to restrict general authority of the tool.**

The League also supports the potential use of SSDs for mixed-use districts that include residential and commercial/industrial properties. The law should be reviewed to determine to what extent mixed-use properties can and should contribute to a Special Service District from which they will benefit. The League would support legislation that expands SSDs to include mixed-use development to the extent it balances the benefits and obligations of residential properties within the district.

If the Legislature grants multi-jurisdictional entities the authority to create HIAs, creation of an HIA must require local approval.

FF-29. Tax-Forfeited Properties and Local Special Assessments

Issue: Special assessments are a charge, authorized by the Legislature and state law, imposed on properties for a particular improvement that benefits those selected properties. Cities follow complex, time-consuming statutory special assessment procedures to specially assess the appropriate amount of the local infrastructure improvements to those properties.

If a property with validly attached special assessments goes into tax-forfeiture, the county auditor cancels all of the local special assessments due and remaining unpaid on each parcel, which is authorized in Minn. Stat. § 282.07. Therefore, the city loses the funds previously budgeted and planned for to pay for the local improvements. To underline this point, the funds have already been expended and if not collected, result in losses to the city.

When tax-forfeited land returns to private ownership, and the parcel benefitted from an improvement for which the city canceled special assessments because of the forfeiture, the city may assess or reassess the parcel. But cities must go through the same cumbersome notice and hearing procedures in order to re-attach the assessments.

Response: **The Legislature should remove cancellation of local special assessments from state law, allowing cities to receive the funding validly assessed and counted on to fund local infrastructure improvements.**

FF-30. Distribution of Proceeds from the Sale of Tax-Forfeit Property

Issue: When properties go into tax forfeiture all levels of government lose tax revenue that would otherwise support the services they provide. It is always in the best interest of taxpayers to return these properties to the tax rolls as quickly as possible.

Although the tax forfeiture process is controlled by the county, and counties have a legitimate need to be reimbursed for reasonable administrative costs, the city often has more at stake financially in terms of costs fronted to facilitate development (e.g., assessments for public infrastructure and unpaid development or utility fees). While the tax forfeit procedure provides a process for the repayment of special assessments, it does not require the repayment of unpaid utility charges or unpaid building and development fees. Further, due to large assessments that some cities are left with, it may not be practical to sell a tax-forfeited property subject to a special assessment, and city taxpayers may be forced to absorb the sunk costs of a project in order to sell the property.

State statutes governing the apportionment of the proceeds from the sale of tax forfeit property allow counties to first recover administrative costs related to the tax forfeiture process before subsequent allocations are made for special assessments and hazardous waste cleanup associated with the property. State law is unclear whether the proceeds from a tax forfeiture transaction should be used to reimburse the county only for the expenses associated with the transacted parcel, or if the proceeds can be used to reimburse the county for administrative costs associated with other parcels that were not transacted. When the latter allocation method is employed by a county, the transaction proceeds can be disproportionately applied to county administrative costs resulting in a lower allocation of remaining proceeds to cover existing special assessments, hazardous waste cleanup costs and ultimately the final allocation of residual tax forfeit sale proceeds to cities.

In addition, counties are allowed to use 30 percent of the amount remaining after the deduction for administrative expenses and the repayment of special assessments for forest development projects and then 20 percent of any remaining proceeds for county parks and recreation projects. The structure of the distribution of the proceeds frequently results in cities receiving a very small percentage of the initial forfeit sale proceeds. As a result, cities may not recoup even a portion of the unpaid taxes or special assessments owed on a property.

In most cases, cities and counties work collaboratively to ensure that properties are returned to the tax rolls quickly to benefit all taxpayers. However, when consensus is not reached, the tax forfeiture statutes place cities at a disadvantage and can disproportionately burden the taxpayers of the city in which the properties are located.

Response: **The League of Minnesota Cities believes the tax forfeiture statutes should be reviewed and amended as necessary to ensure that the needs of city and county taxpayers are properly balanced. Specifically, the League supports changes in the distribution of**

the proceeds from the sale of tax forfeit property contained in Minn. Stat. § 282.08 to elevate the priority for repayment of unpaid charges for electricity, water and sewer charges certified pursuant to Minn. Stat. § 444.075 subd. 3(e), and any unpaid fees prescribed pursuant to Minn. Stat. § 462.353 subd. 4(a), to require those unpaid charges and fees to be repaid immediately after unpaid special assessments.

The proceeds from the sale of a tax forfeited parcel should be used to pay the assessments and administrative and development costs for the transacted parcel. Minn. Stat. § 282.09 should be amended to prevent the proceeds from the sales of a tax forfeited parcel to be used to pay excessive administrative costs or the costs for other parcels in the county until the city is fairly reimbursed for unpaid assessments and development costs of the transacted parcel.

Before the final distribution of any remaining proceeds from the sale of tax forfeited land are distributed to cities, counties, and school districts, Minn. Stat. § 282.08(4)(i) and (ii) give counties the right to take up to half of those proceeds for county forest development and county park and recreation areas. The League also supports the elimination of these separate statutory apportionments while allowing counties to use their designated 40 percent share of the remaining proceeds for these uses.

FF-31. State Hazard Mitigation and Response Support

Issue: Cities in Minnesota are exposed to extreme weather events such as winds, flooding, fires, and drought and are facing the severe financial consequences of the clean-up, repairs, and community social and economic recovery, even though damages may be deemed "not of such severity and magnitude" as to qualify for federal assistance.

Response: **The League of Minnesota Cities calls on our legislators and state executive agencies charged with hazard mitigation planning to address not only a response to extreme weather events but to also put into place a proactive strategy to minimize or mitigate the financial consequences. At a minimum, this effort should offer a reasonable loan funding program that is easily accessible by cities, businesses and homeowners to financially recover and rebuild, with the ultimate goal of preserving jobs, industries, and communities.**

The state response should allow for the use of new technology and best management practices for any reconstruction of infrastructure to lessen the impact of future disasters and to mitigate the effects of disasters resulting from future extreme weather events.

FF-32. Library Funding

Issue: State law requires that local governments maintain a minimum level of funding for public library services. This is collectively known as "state-certified levels of library support," or more commonly known as, "maintenance of effort (MOE)" and is described in Minn. Stat. § 134.34.

A majority of public libraries in Minnesota belong a regional library system, which is the entity that receives library funding from the Minnesota Department of Education. Six of the 12 regional library systems are structured as a federated system where the individual libraries or library systems operate autonomously from the regional

library system but they can utilize certain services such as inter-library loan distribution, digital card cataloging, which capitalize on economies of effort from partnering with the other libraries in the regional system. The MOE for any city that taxes separately for library services is now set at 90% of the amount established in 2011 (see Minn. Stat. § 275.761). In 2011, it was calculated using a formula that included payments made in the form of the library employee salaries, payments toward operating the facility, purchasing materials from the library, and other operating costs, adjusted net tax capacity, and several other factors. The other half of the state's public library systems are consolidated systems, where the regional library system runs the libraries through a joint powers agreement with counties and participating cities. The regional library system has a board and hires the director. A city that participates in the regional system will have an MOE (calculated as described above). The city MOE may include dollars provided directly to the regional library system or operating dollars provided to support building costs (i.e. city-provided maintenance services).

In the metropolitan area, the seven county library systems and one city library system belong to the Metropolitan Library Services Agency (MELSA), the metro area regional library system. Most of the cities that operate libraries independently from their county library system belong to MELSA as affiliates of their county library system. The funding of libraries in MELSA may be from a county levy, a city levy, a city library fund from the general city levy or a combination.

Most libraries not only serve city residents, but also serve people that reside outside of city limits who, in some cases, are not fully contributing to the upkeep, maintenance or operations of the library through property tax levies. While counties do contribute to municipal libraries, this support falls well short of the per capita amounts contributed by city residents.

City officials support libraries and believe that a system of equitably funded libraries is needed. One approach that has been previously approved by the Legislature is providing for funding through regional tax levies designated as "library districts." A district would have the authority to levy for public library services in lieu of their member cities and counties. Under Minn. Stat. § 134.201, the Great River Regional Library System and the East Central Regional Library System already have authority to create "library districts."

Some cities also contribute a supplemental amount of funding separate from MOE requirements, usually to pay for building maintenance costs. When the state calculates the required MOE for each local unit of government, local building costs are included in city MOE requirements and all monies cities contribute to a library building, except capital, are taken into account. The MOE requirement is a mandate on cities that does not allow for local decision making. However, it provides a stable source of funding to protect the investment in library resources and services around the state. There are some groups that are advocating for a restoration of the MOE to levels at least as high as the 2010 level.

Response: **The League of Minnesota Cities supports equitable funding for local libraries to allow for local budget decision making. Changes to the maintenance of effort by the Legislature should be as follows:**

a) **The required annual payment should reflect the amount the city itself pays toward maintenance, upkeep, and**

capital improvements to the library in that year.

b) **If the MOE reduction in Minn. Stat. § 275.761 is restored to a level at least as high as the 2010 level, it should be phased in over three years.**
c) **Any relief provided to the county MOE requirement should not result in additional funding requirements to cities.**

The authority for library systems to create library taxing districts should be expanded statewide.

The Legislature should allow municipal libraries the ability to charge non-residents for membership and\or other services without the loss of any State or Federal aids.

FF-33. Park and Library Land Tax Break

Issue: As the price for land increases, it is becoming more difficult for cities and other local units of government to compete with developers to save and secure land and easements that are deemed appropriate for park, library, trail, and green spaces.

Response: **The state should amend the tax laws to provide tax incentives for property owners who sell land and easements to local units of government when the land is to be used for park, library, trail or green space purposes.**

FF-34. Increasing Safe School Levy Authority

Issue: Strong partnerships between schools and local law enforcement are critical to school safety. Police School Resource Officers (SROs) are valued professionals in school communities and provide support, safety and security for students, staff and the public. Further, SROs can provide regular opportunities for informal, positive interactions between students and police personnel.

Under Minn. Stat. § 126C.44, the Safe Schools Levy allows school districts to levy for costs associated with student and staff safety based on student enrollment numbers. Some eligible expenses include police liaison services; drug abuse prevention programs; gang resistance education training; school security; crime prevention; and implementation of student and staff safety measures.

Using Safe Schools Levy authority, local school boards may raise additional resources for school safety and security. Almost every Minnesota school district currently levies the full amount of $36 per pupil. This amount does not cover the full cost of providing this important service, and local law enforcement agencies are not being fully compensated for providing SROs.

Response: **The League supports increasing the maximum Safe Schools Levy from $36 per pupil up to $60 per pupil to ensure schools and communities are able to continue providing safe schools programming**

FF-35. Equitable Funding of Community Education Services

Issue: Under Minn. Stat. § 124D.20, school districts are authorized to levy for community education programs that can include youth recreational activities. However, state statute limits the total amount of revenue that can be raised by the school district to fund community education programs and this limit has not been sufficiently increased in recent years. In many instances, cities participate in the funding of these programs and with the

statutory limit on the amount school districts can levy, the increased cost of these programs is increasingly falling on cities and their property taxpayers. In areas where the school district is significantly larger than the city, the burden of funding these programs is falling disproportionately on city taxpayers while the programs benefit the entire school district.

Response: **The League of Minnesota Cities supports a statutory increase in the community education revenue authorization for school districts. Increasing the amount of the community service revenue available to school districts would provide a steady source of revenue, which would be assessed against all properties in the school district, not just against properties in the city.**

FF-36. Street Reconstruction Bond Approval

Issue: Under Minnesota law, financing the maintenance of streets can be a challenge for city councils. Minn. Stat. § 475.58 subd. 3b, authorizes a city council, by two-thirds vote, to approve the issuance of bonds to finance street reconstruction or bituminous overlays without voter approval. The two-thirds council approval requirement is further subject to a reverse referendum process whereby a number equal to five percent of those voting in the last municipal general election can petition for a referendum to approve the issuance of the bonds.

Response: **Street maintenance is one of the essential functions of cities in Minnesota. The laws governing issuance of bonds to maintain streets should be amended to allow the approval of the bonds by a simple majority of the council. The existing reverse referendum process assures that taxpayers could trigger a referendum on the issuance of bonds if they can meet the five percent petition threshold.**

FF-37. Special Assessment Election Requirements

Issue: City councils are best situated to recognize the need to replace infrastructure and when to schedule the replacement projects. Cities are often only able to carry out these and other vital improvements by issuing bonds and assessing some amount of the cost to property owners.

Issuing bonds to finance most local improvement projects requires a special election unless the city can legally collect at least 20% of the project costs through special assessments. As a legal limit, cities cannot collect special assessments from any property greater than the increase in fair market value bestowed to that property by the improvement (the "special benefit test"). On occasion, the increase in property values as a result of the improvement can fail to add up to the 20% threshold necessary to finance projects without requiring a special election.

Response: **In order to facilitate the financing public infrastructure projects, the threshold for requiring voter approval for issuance of improvement bonds under Minn. Stat. § 429.091 should be reduced to 15 percent. This change would provide more flexibility for cities with their construction/bonding/ assessment decisions while still providing value to the property owner.**



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MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM: Curt Boganey, City Manager

SUBJECT: Request to Provide a City Phone to the Mayor

Recommendation:

- *Consider a request from Mayor Elliott to receive a City funded phone for City Business*

Background:

Mayor Elliott has made a request to have the City provide a phone to him for business use. Mayor Elliott will provide further explanation for this request at the Council Meeting.

The estimated cost of providing a smart phone $1,300.00 in the first year and $360. in year two and beyond. It is assumed the phones will be replaced after three (3) years.

There would be no direct phone cost to provide a feature phone that only allows calling and texting. The additional service plan cost is estimated to be $25-$50 per month.

Policy Issues:

1. Does approval of this request serve a public purpose of sufficient value to the City to justify the expenditure?
2. Should all Councilmembers receive the same City resource?

MEMORANDUM - COUNCIL WORK SESSION

DATE: 1/14/2019

TO: Curt Boganey, City Manager

THROUGH: N/A

FROM:

SUBJECT: Pending Items

Recommendation:

- Cities United Membership
- Livable Wages
- Affordable Housing Recommendations
- On-Street Parking Conditions
- First Saturday Market discussion
- Future Use of EDA Properties
- Public Subsidy Policy discussion with Ehlers Consulting - 1/28, 2/25, 3/11

Background: