

**CITY OF ELKO NEW MARKET
CITY COUNCIL AGENDA
ELKO NEW MARKET CITY HALL
601 MAIN STREET
ELKO NEW MARKET, MINNESOTA 55054
THURSDAY, AUGUST 8, 2019**

**BUSINESS MEETING
6:00 PM**

REVISED

1. Call to Order

2. Pledge of Allegiance

3. Adopt/Approve Agenda

4. Presentations, Proclamations and Acknowledgements (PP&A)

5. Public Comment

Individuals may address the Council about any item not contained on the regular agenda. The Council may limit the time allotted to each individual speaker. A maximum of 15 minutes will be allotted for Public Comment. If the full 15 minutes are not needed for Public Comment, the City Council will continue with the agenda. The City Council will not normally take any official action on items discussed during Public Comment, with the exception of referral to staff or commission for future report.

6. Consent Agenda

All matters listed under consent agenda are considered routine by the City Council and will be acted on by one motion in the order listed below. There may be an explanation, but no separate discussion on these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

- a. Approve July 25, 2019 Minutes of the City Council Meeting
- b. Approve Payment of Claims and Electronic Transfer of Funds
- c. Amend City Code Concerning Regulation of Peddlers, Solicitors and Transient Merchants
 - i. Adopt Ordinance No. 194 Amending Title 4, Chapter 4, Sections 4-4-1, 4-4-2, 4-4-3, 4-4-4- and 4-4-11 of the Elko New Market City Code Concerning Regulation of Peddlers, Solicitors and Transient Merchants
 - ii. Adopt Ordinance No. 195 Amending Title 4, Chapter 4 of the Elko New Market City Code Concerning Regulation of Peddlers, Solicitors and Transient Merchants
- d. Amend Professional Services Agreement with SRF Consulting Group, Inc.
- e. Joint Powers Agreement for Assessment Services
- f. R4 District Standards Zoning Ordinance Amendment
 - i. Adopt Ordinance #196 Amending Landscaping Requirements and Internal Setback Requirements in the R4 Zoning District
- g. Solar Energy Systems Zoning Ordinance Amendment
 - ii. Adopt Ordinance #197 Amending City of Elko New Market City Code Title 11, Chapter 14, Concerning Maximum Area for Ground Mounted Solar Energy Systems

- iii. Adopt Summary Ordinance #198 Amending City of Elko New Market City Code Title 11, Chapter 14, Concerning Maximum Area for Ground Mounted Solar Energy Systems
- h. Amend Conditional Use Permit for Greystone Construction
 - i. Adopt Resolution #19-48 Approving Amendment to Conditional Use Permit #C1-2017 to Allow and Additional Accessory Drive-Through Lane
- i. Condemnation Proceedings for Easements Needed for CSAH 2 & 91 Roundabout Project
 - a. Adopt Resolution #19-49 Authorizing Condemnation Proceedings to Acquire Temporary Construction Easement

7. Public Hearings

8. General Business

- a. Review of ATV/Golf Cart Regulations

9. Reports

- a. Administration
- b. Public Works
 - i. Monthly Report - July 2019
- c. Police Department
 - i. Monthly Report – July 2019
- d. Fire Department
- e. Engineering
- f. Community Development
 - i. Community Development Updates
 - ii. Draft Planning Commission Minutes of the July 30, 2019 Meeting
- g. Parks Department
 - i. Monthly Parks & Recreation Update
- h. Community & Civic Events Committee (CCEC)
- i. Other Committee and Board Reports
 - i. Scott County Association for Leadership and Efficiency (SCALE)
 - ii. Minnesota Valley Transit Authority (MVTA)
 - iii. I35 Solutions Alliance
 - iv. Chamber of Commerce

10. Discussion by Council

11. Adjournment

1. CALL TO ORDER

The meeting was called to order by Mayor Julius at 6:00 p.m.

Members Present: Mayor Julius, Councilmembers: Berg, Schwichtenberg, Seepersaud and Timmerman

Members Absent: None

Also Present: City Administrator Terry, Police Chief Juell, City Attorney Poehler, and City Engineer Revering

2. PLEDGE OF ALLEGIANCE

Mayor Julius led the Council and audience in the Pledge of Allegiance.

3. ADOPT/APPROVE AGENDA

Mayor Julius indicated moving Item A “Approve June 27, 2019 Minutes of the City Council Meeting” to be under General Business.

MOTION by Councilmember Berg, second by Councilmember Timmerman to approve the agenda as amended. **APIF, MOTION CARRIED**

4. PRESENTATIONS, PROCLAMATIONS AND ACKNOWLEDGEMENTS

None.

5. PUBLIC COMMENT

- Todd Priebe – ATV and Golf Cart Regulations

Mr. Priebe, 10386 Windrose Curve, Elko, stated he was at the meeting to talk about the use of Golf Carts, 4 Wheelers and Side-by-Side’s, otherwise known as “vehicles”. He was recommending an Ordinance be put in place to allow these types of vehicles to be used in the Township. Several communities in the area have Ordinances that allow use of these vehicles. Chaska, Belle Plaine, Lonsdale and many other communities, allow these vehicles where a permit is needed with proof of insurance on the vehicle and is usually free to do that. With the exception of golf carts, 4 wheelers and side-by-sides are licensed and have turn signals, with headlights and taillights. The issue came to attention on June 29th, the night of the town dance. For years the use of the vehicles in Elko has come to be known as sort of a right in this area and now it is being enforced. Per the Elko website, this is a small-town culture and many residents have moved to Elko because of the small-town feel. The housing, the community, town ball and the ability to ride the vehicles. He noted he has several friends in the area that will ride their vehicles to town either to go to the Muskies game or to go to the firehouse for a burger and are on the southern side within the township but on the Lakeville side. He indicated his friends have told him that if they cannot use those vehicles in Elko then they would spend their money elsewhere and is definitely not something they want within Elko New Market. He stated in addition these folks drive from their home in Lakeville and will drive all the way

down to Castlerock and home and have never had any issues or have never gotten pulled over.

Mr. Priebe noted one of the main concerns were kids under 16 driving golf carts. The State of Minnesota a person can get their ATV certification as a minor, unfortunately with golf carts you have to be 16 and have a license to drive them. He stated one of the things he has heard by pulling over people on the side-by-sides is that we are educating them but really it is not educating them, it is a warning, or it is like a threat. He thought it made a lot of sense for the City Council to adopt an Ordinance allowing the 4 wheelers, golf carts and side-by-side.

Mr. Priebe asked who on the City Council was in favor of adopting an Ordinance for this. Mayor Julius stated in a general sense he was in favor of exploring this further. For the record the City Council cannot point in a direction at this point, but he thought the Council was willing to explore this further.

Mr. Priebe asked if until this item can be discussed could people ride these types of vehicles without getting tickets unless they are doing something stupid. Mayor Julius stated the City Council cannot ask the Police Chief to not enforce the law.

Police Chief Juell stated he agreed with the City Council to explore it but a few points, a resident does not have the right to drive a golf cart on the roadway and just acknowledging that it has been that way does not mean it is not against the law, it has always been against the law. He indicated that is State Statute and a lot of people do not know that and is not a threat, it is education and he thought it was his job as the Police Chief and his staff's position on it is that people do not know they are breaking the law and he and his staff need to inform them of that and an education enforcement campaign. That is what his staff is doing and until that Ordinance is changed, he cannot instruct his officers to let some of the people go without a warning because it is prejudicial.

Police Chief Juell indicated his Department does not stop a lot of ATV's because it is legal. He noted half of the complaints received are golf carts and the other half is ATV's.

Councilmember Seepersaud asked if this item could be on the August 8, 2019 meeting for discussion. Mayor Julius asked if staff would be ready to discuss this further at the August 8th meeting. Administrator Terry indicated staff would be ready to present and ask the Council if they wanted to make changes and what those changes might be so staff can go forward and prepare action items for consideration by the Council at a subsequent meeting.

Mayor Julius indicated Mr. Priebe had information from other cities regarding their Ordinances on this and asked if staff would be receptive to looking at that. Administrator Terry indicated he would. Mr. Priebe stated he would email a spreadsheet to anyone who wanted it.

Administrator Terry reviewed the current Ordinance and what the City Council might want to discuss at the August 8th meeting.

- Mr. Tom Wolf, County Commissioner, updated the City Council on the YMCA construction, water issues on private property, new Court House building along with County road projects.
- Mr. Rob Schnichel's, 26681 Oakridge Way, Elko, thanked the City Council for considering looking at the ATV Ordinance. He thought there was a misconception about that permitting process. That tells cities that they have the ability to do a permitting process. He knew the golf cart thing will be tough and thought it was what the most complaints were about with kids piled on them. He asked the City Council to look at all of the Statutes when reviewing this. He stated this is a use that is important to the residents and thought the current Ordinance was kind of vague. Police Chief stated he disagreed because it is against the law and it is not "you can operate unless the Ordinance says you can't", the Statute allows cities to make an Ordinance permitting process. All State Laws affect motor vehicles and a golf cart under motor vehicle laws has zero rights and cannot be operated on the roadway unless the Motor Vehicle Statute is met.
- Ms. Linda Borgen, 26630 Drew Avenue, Elko, stated she was on the City Council when the golf course was being proposed and built and the subject of golf carts came up at that time and was said golf carts would not be allowed on City streets. If a resident lived on the golf course the golf cart could be driven from their home to the club house via the sidewalk. She did not remember if it was ever put into an Ordinance or not, but it was discussed quite thoroughly.
- Mayor Julius noted a resident sent him an email indicating they wanted this put into the record.

6. CONSENT AGENDA

MOTION by Councilmember Berg, second Councilmember Timmerman to approve Consent Agenda.

- Moved to General Business for discussion
- Approve July 11, 2019 Minutes of the City Council Meeting
- Approve Payment of Claims and Electronic Transfer of Funds
- Approve Employment Agreement
- Adopt Resolution 19-45 Gambling Permit for A Race Worth Winning – ALS
- Adopt Resolution 19-47 Amending Electronic Communication Equipment Policy
- Planner I Position
 - Approve the Job Description for the Planner I Position
 - Amend the 2019 Salary Schedule to Include the Planner I Position at Grade 9
 - Authorize the Hire of Haley Sevensing for the Planner I Position

APIF, MOTION CARRIED

7. PUBLIC HEARINGS

None

8. GENERAL BUSINESS

Transfer of Funds

- i. Resolution 19-46 Transfer of Funds
City Administrator Terry requested the City Council consider Resolution 19-46, Transfer of Funds. After discussing this item, the City Council requested Staff to transfer \$292,146 to the Capital Projects fund to help service debt for capital projects and equipment purchases. **MOTION** by Councilmember Timmerman, second Councilmember Berg, to approve Resolution 19-46, Transfer of Funds. **APIF, MOTION CARRIED**

June 27, 2019 City Council Meeting Minutes

Mayor Julius indicated he had this item removed from the Consent Agenda in order to amend the comments of the Unintentional Use Policy to remove the individual name and only reference the date or timeframe. **MOTION** by Councilmember Julius, second Councilmember Timmerman, to approve June 27, 2019 City Council Meeting Minutes as amended. **APIF, MOTION CARRIED**

9. REPORTS

- a) ADMINISTRATION
None
- b) PUBLIC WORKS
Written report included in Council Packet.
- c) POLICE DEPARTMENT
Written report included in Council Packet.
- d) FIRE DEPARTMENT
None
- e) ENGINEERING
City Engineer Revering indicated the 2019 Pavement Rehabilitation plan is waiting for contracts and bids to come back to determine low bidder. The plans are to start in mid-August with paving and curbing in September.
- f) COMMUNITY DEVELOPMENT
None
- g) PARKS DEPARTMENT
Written Parks Commission Update and Minutes of July 9, 2019 Meeting included in Council Packet.
- h) Community & Civic Events Committee (CCEC)
Councilmember Seepersaud noted CCEC is starting to plan Halloween events.
- i) OTHER COMMITTEE AND BOARD REPORTS

i. SCALE

Mayor Julius indicated SCALE meets in two weeks.

ii. MVTA

Councilmember Schwichtenberg indicated the meeting was cancelled.

iii. I35 SOLUTIONS ALLIANCE

Berg noted the meeting is in a couple of weeks.

iv. CHAMBER OF COMMERCE

Councilmember Timmerman noted Aaron Johnson resigned from the Chamber of Commerce. The executive assistant has put in a resignation effective August 15th.

10. DISCUSSION BY COUNCIL

None

11. ADJOURNMENT

MOTION by Councilmember Timmerman, second by Councilmember Seepersaud, to adjourn the meeting at 7:00 p.m. **APIF, MOTION CARRIED**

Respectfully submitted by:

Thomas Terry, City Administrator



STAFF MEMORANDUM

SUBJECT:	Presentation of Elko New Market Claims and Electronic Transfer of Funds
MEETING DATE:	August 8, 2019
PREPARED BY:	Stephanie Fredrickson, Administrative Assistant
REQUESTED ACTION:	Approve Payment of Current Claims

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Each City Council meeting the Administrative Assistant presents for approval the Elko New Market Claims and Electronic Transfer of Funds.

BUDGET IMPACT:

Budgeted

Attachments:

- Check Summary Register

*Check Summary Register©

August 8, 2019

Name	Check Date	Check Amt	
AUTOPAYS			
Paid Chk# 006214E PERA	7/25/2019	\$8,383.48	Vendor Liability
Paid Chk# 006215E MN DEPT OF REVENUE	7/25/2019	\$2,057.64	Vendor Liability
Paid Chk# 006216E INTERNAL REVENUE SERVICE	7/25/2019	\$9,987.07	Vendor Liability
Paid Chk# 006217E HEALTH EQUITY, INC.	4/25/2019	\$706.92	Craig Bell
Paid Chk# 006218E HEALTH EQUITY, INC.	7/25/2019	\$706.92	Craig Bell
Paid Chk# 006219E VISA	5/31/2019	\$1,431.24	Melissa Hanson- Land Use Regist
Paid Chk# 006220E VISA	5/31/2019	\$47.62	Glass Market for Enforcement
Paid Chk# 006221E VISA	5/31/2019	\$124.17	Food for work session
Paid Chk# 006222E VISA	5/31/2019	\$80.49	Salt for softener
Paid Chk# 006223E VISA	5/31/2019	\$79.45	Chief's Meeting refreshments
Paid Chk# 006224E VISA	5/31/2019	\$354.83	Fleet
Paid Chk# 006225E VISA	6/30/2019	\$134.99	Battery for Tough Books
Paid Chk# 006226E VISA	6/30/2019	\$214.99	Marty 2019 Boots
Paid Chk# 006227E VISA	6/30/2019	\$113.93	Spring Cleanup- Coffee
Paid Chk# 006228E VISA	6/30/2019	\$1,208.00	Building Maint- Library AC
Paid Chk# 006229E VISA	6/30/2019	\$186.51	Squad Tint Meters X3
Paid Chk# 006230E VISA	6/30/2019	\$68.84	Training Lunch- Zach D
Paid Chk# 006231E VISA	6/30/2019	\$213.97	Taser Holster
Paid Chk# 006232E VISA	6/30/2019	\$717.45	Fleet
Paid Chk# 006233E HEALTH PARTNERS	8/1/2019	\$17,107.86	MEDICAL INS
Paid Chk# 006234E SUN LIFE FINANCIAL	8/1/2019	\$1,215.75	Life Insurance
Paid Chk# 006235E DELTA DENTAL OF MINNESOTA	8/1/2019	\$1,023.60	Delta Dental- Aug
Paid Chk# 006236E TRANSFER	7/29/2019	\$800,000.00	Transfer from Savings to Checking
Paid Chk# 006237E MN DEPT OF LABOR & INDUSTRY	3/31/2019	\$250.91	Q1 Building Surcharge Report
Paid Chk# 006238E MN DEPT OF LABOR & INDUSTRY	6/30/2019	\$301.69	Q2 Building Surcharge Report
Paid Chk# 006239E MINNESOTA ENERGY RESOURCES	8/16/2019	\$49.30	26518 France Avenue
Paid Chk# 006240E MINNESOTA ENERGY RESOURCES	8/16/2019	\$19.71	26518 France Avenue
Paid Chk# 006241E XCEL ENERGY	8/20/2019	\$295.47	Storage
Paid Chk# 006242E XCEL ENERGY	8/21/2019	\$186.95	Lift Station / 10010 Ptarmigan
Paid Chk# 006243E XCEL ENERGY	8/22/2019	\$2,941.71	25499 Natchez Ave - Water Trea
Paid Chk# 006244E XCEL ENERGY	8/21/2019	\$1,056.30	Wellhouse - 26460 France Ave
Paid Chk# 006245E XCEL ENERGY	8/21/2019	\$1,276.66	26536 France Ave
Paid Chk# 006246E MN VALLEY ELECTRIC COMPANY	8/9/2019	\$12.79	City of Elko Park, Elko
Paid Chk# 006247E XCEL ENERGY	8/21/2019	\$815.20	Library - 100 J Roberts Way
Paid Chk# 006248E MINNESOTA ENERGY RESOURCES	8/19/2019	\$21.11	408 Carter Street
Paid Chk# 006249E MINNESOTA ENERGY RESOURCES	8/19/2019	\$19.53	359 James Parkway
Paid Chk# 006250E MINNESOTA ENERGY RESOURCES	8/19/2019	\$49.53	110 J Roberts Way - Library
Paid Chk# 006251E MINNESOTA ENERGY RESOURCES	8/16/2019	\$22.05	26518 France Avenue
Paid Chk# 006252E MINNESOTA ENERGY RESOURCES	8/16/2019	\$52.14	PW Facility - Gas Utilities
Paid Chk# 006253E MINNESOTA ENERGY RESOURCES	8/15/2019	\$49.99	25499 Natchez Ave - WTP
TOTAL		\$853,586.76	

PRE-PAIDS

Paid Chk# 039978 PAYROLL	7/25/2019	\$1,333.00	
Paid Chk# 039979 PAYROLL	7/25/2019	\$69.26	
Paid Chk# 039980 PAYROLL	7/25/2019	\$429.25	
Paid Chk# 039981 PAYROLL	7/25/2019	\$46.17	
Paid Chk# 039982 PAYROLL	7/25/2019	\$46.17	
Paid Chk# 039983 PAYROLL	7/25/2019	\$69.26	
Paid Chk# 039984 MAD SCIENCE OF MINNESOTA	7/25/2019	\$335.00	Thursday Event 7/25/19
Paid Chk# 039985 SHERWIN-WILLIAMS	7/25/2019	\$148.33	Was Ck#39677
TOTAL		\$2,476.44	

CHECK REGISTER

Paid Chk# 039986 240TH ST REPAIR	8/8/2019	\$1,184.10	PD Fleet
Paid Chk# 039987 AMAZING BALLOONS MN LLC	8/8/2019	\$300.00	Balloon Entertainment - Commun
Paid Chk# 039988 ANCOM COMMUNICATIONS, INC.	8/8/2019	\$1,736.50	FD - New Pagets
Paid Chk# 039989 ANCONA TITLE & ESCROW	8/8/2019	\$261.31	Utility Billing Credit Refund
Paid Chk# 039990 APPLE VALLEY MEDICAL CLINIC	8/8/2019	\$256.00	Pre-Employ Testing - Derek Cav
Paid Chk# 039991 BAKER TILLY MUNICIPAL	8/8/2019	\$2,300.00	2013A Arbitrage Calculation
Paid Chk# 039992 BIERMA, WILLIAM & CYNTHIA	8/8/2019	\$154.40	Utility Billing Credit Refund
Paid Chk# 039993 BOLTON & MENK	8/8/2019	\$19,071.40	T17.118647 - Christmas Pines
Paid Chk# 039994 BTR OF MINNESOTA LLC	8/8/2019	\$123.85	PW - Fleet Maint & Equip
Paid Chk# 039995 CARPENTIER, THOMAS	8/8/2019	\$149.58	Utility Billing Credit Refund
Paid Chk# 039996 CINTAS CORPORATION NO. 2	8/8/2019	\$63.54	PW UNIFORMS
Paid Chk# 039997 CORE & MAIN LP	8/8/2019	\$1,299.64	2019 Mill & Overlay
Paid Chk# 039998 CULLIGAN BOTTLED WATER	8/8/2019	\$162.44	Bottled Water

*Check Summary Register©

August 8, 2019

	Name	Check Date	Check Amt	
Paid Chk#	039999	EDINA REALTY TITLE	8/8/2019	\$13.44 Utility Billing Credit Refund
Paid Chk#	040000	ELANDER, LEE & KIMBERLY	8/8/2019	\$86.08 Utility Billing Credit Refund
Paid Chk#	040001	ENGBRETSON, TODD	8/8/2019	\$61.06 Utility Billing Credit Refund
Paid Chk#	040002	FIRST AMERICAN TITLE INS CO.	8/8/2019	\$153.11 Utility Billing Credit Refund
Paid Chk#	040003	FLEET SERVICES &	8/8/2019	\$563.95 FD - Engine #1 (Batteries)
Paid Chk#	040004	GOPHER STATE ONE CALL	8/8/2019	\$49.95 Locates
Paid Chk#	040005	HAWKINS, INC.	8/8/2019	\$239.50 PW - Water Chemicals
Paid Chk#	040006	IDENTISYS	8/8/2019	\$416.22 Adhesive Disc FOBs
Paid Chk#	040007	INNOVATIVE OFFICE SOLUTIONS LL	8/8/2019	\$163.66 Office Supplies
Paid Chk#	040008	KAREN BISTODEAU	8/8/2019	\$170.00 Face Painting for Community Pi
Paid Chk#	040009	KELLEY FUELS, INC.	8/8/2019	\$2,149.42 PW - Fuel
Paid Chk#	040010	KHALAF, RYAN & FRANCES	8/8/2019	\$181.74 Utility Billing Credit Refund
Paid Chk#	040011	MAMA-METRO AREA MGMT ASSN	8/8/2019	\$25.00 July 25 2019 Luncheon - Tom Te
Paid Chk#	040012	MARKET VILLAGE SR RESIDENCE	8/8/2019	\$319.40 A-1 Landscaping Inv#
Paid Chk#	040013	MN CRITTER GETTERS, INC.	8/8/2019	\$1,174.00 Monthly Animal Control July 20
Paid Chk#	040014	MUNICIPAL INSPECTIONS, INC.	8/8/2019	\$9,615.22 Building Inspections
Paid Chk#	040015	MVTL LABORATORIES	8/8/2019	\$95.00 PW - Water Testing
Paid Chk#	040016	NAPA AUTO PARTS	8/8/2019	\$331.88 PW - Fleet Maint & Equip
Paid Chk#	040017	NASSEFF MECHANICAL	8/8/2019	\$760.00
Paid Chk#	040018	NORTHLAND PEST CONTROL	8/8/2019	\$21.25 Pest Control - Library
Paid Chk#	040019	OPENDOOR LABS, INC.	8/8/2019	\$44.82 Utility Billing Credit Refund
Paid Chk#	040020	POP UP PARTY RENTAL	8/8/2019	\$289.99 Family Fun Night Event 7/11/19
Paid Chk#	040021	RESOP, MICHAEL & ANN	8/8/2019	\$61.63 Utility Billing Credit Refund
Paid Chk#	040022	RUTTER, LEONARD & CATHY	8/8/2019	\$39.02 Utility Billing Credit Refund
Paid Chk#	040023	SANITY SOLUTIONS INC.	8/8/2019	\$6,938.00 Vmware Software 11/3/19-11/2/2
Paid Chk#	040024	SCOTT COUNTY TREASURER	8/8/2019	\$855.00 Annual Costs for Maint of Fibe
Paid Chk#	040025	SCOTT COUNTY ATTORNEY OFFICE	8/8/2019	\$3,256.34 Quarterly Pmt of Fines - Qtr 2
Paid Chk#	040026	SCOTT COUNTY RECORDER	8/8/2019	\$46.00 F13-19 Fence Encroachment Agmt
Paid Chk#	040027	HALEY SEVENING	8/8/2019	\$239.54 Mileage 1st Half 2019 - 1/1/19
Paid Chk#	040028	SHRED RIGHT	8/8/2019	\$15.00 Shredding
Paid Chk#	040029	SKELLY, DANIEL & THERESA	8/8/2019	\$126.23 Utility Billing Credit Refund
Paid Chk#	040030	SOUTH METRO RENTAL	8/8/2019	\$790.00 2019 Mill & Overlay
Paid Chk#	040031	STREICHER'S INC	8/8/2019	\$222.97 PD - Surveillance Earpiece
Paid Chk#	040032	SUEL PRINTING COMPANY	8/8/2019	\$1,101.00 Legal Ads
Paid Chk#	040033	MIKE SUTTON	8/8/2019	\$98.45 Easter Prizes
Paid Chk#	040034	TITLE CHOICE, LLC	8/8/2019	\$62.55 Utility Billing Credit Refund
Paid Chk#	040035	TRADEMARK TITLE SERVICES, INC.	8/8/2019	\$44.02 Utility Billing Credit Refund
Paid Chk#	040036	SPLIT ROCK MANAGEMENT INC	8/8/2019	\$845.00 LIBRARY CLEANING
Paid Chk#	040037	VERIZON WIRELESS	8/8/2019	\$874.10 Cell Phones
Paid Chk#	040038	ZIEGLER INC.	8/8/2019	\$590.00 2019 Mill & Overlay

TOTAL**\$60,192.30****DIRECT DEPOSIT**

Paid Chk# 502649EBi-Weekly ACH 7/25/2019 \$33,489.94

TOTAL**\$33,489.94**



STAFF MEMORANDUM

SUBJECT: Solicitor Registration
MEETING DATE: August 8, 2019
PREPARED BY: Lynda Jirak, Deputy Clerk
REQUESTED ACTION: Adopt Ordinance No Amending Title 4, Chapter 4, Sections 4-4-1, 4-4-2, 4-4-3, 4-4-4- and 4-4-11 of the Elko New Market City Code Concerning Regulation of Peddlers, Solicitors and Transient Merchants

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
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- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
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- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

It has come to the attention of staff while reviewing the Ordinance on Peddlers, Solicitors and Transient Merchants clarifications on Solicitors and specific exemptions needed to be amended and added. The Solicitor language was determined to be somewhat confusing and implied licensing a Solicitor would be subject to the same standards as Peddlers and Transient Merchants. The intent is to additionally ensure that the City complies with and avoids violating the Commerce Clause for Solicitors, which prohibits states and local governments from interfering with interstate commerce. In addition, Staff is recommending certain exemptions. This includes exemptions for canvassing or soliciting for a charitable, religious, political or educational organization, if such organization is registered with the Secretary of State as a charitable organization. Also, an exemption for a minor operating a lemonade stand.

DISCUSSION

Staff has coordinated with the City Attorney's Office to prepare the correct language to register a Solicitor by amending Title 4, Chapter 4, Sections 4-4-1, 4-4-3, 4-4-4 and 4-4-11 of the Elko New Market Code Concerning Regulation of Peddlers, Solicitors and Transient Merchants. All language regarding Solicitors was amended to read registration only, therefore eliminates the confusion for background checks and also complying with the Commerce Clause. Title 4, Chapter 4, Section 4-4-2 was amended to add the exemptions for charitable organizations and lemonade stands. The City Attorney has reviewed the draft Ordinance and recommended approval.

BUDGET IMPACT:

There is currently no budget impact for this item, other than the cost of City Staff time.

Attachments:

Draft Ordinance #194 regarding Peddlers, Solicitors and Transient Merchants.

Summary Ordinance #195 regarding Peddlers, Solicitors and Transient Merchants.

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 194

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 4, SECTIONS 4-4-1,
4-4-2, 4-4-3, 4-4-4 AND 4-4-11 OF THE ELKO NEW MARKET CITY
CODE CONCERNING REGULATION OF PEDDLERS, SOLICITORS
AND TRANSIENT MERCHANTS**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET, MINNESOTA
ORDAINS:

SECTION 1. Title 4, Chapter 4, Section 4-4-1 Definitions is hereby amended by deleting the definition of solicitor and replacing it with the following language:

SOLICITOR: A person who goes from house to house, door to door, business to business, street to street, or any other type of place to place for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this definition if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed herein.

SECTION 2. Title 4, Chapter 4, Section 4-4-2 Exemption From Provisions is hereby amended by deleting it in its entirety and replacing it with the following language:

4-4-2 EXEMPTIONS FROM PROVISIONS:

- A. For the purpose of the requirements of this chapter, the terms "peddler", "solicitor", and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
- B. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multiperson bazaar or flea market, shall be exempt from the definitions of "peddlers", "solicitors", and "transient merchants", as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale.

Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

- C. Nothing in this chapter shall be interpreted to prohibit or restrict door to door advocacy. Persons engaging in door to door advocacy shall not be required to register as solicitors under section 4-4-11 of this chapter. The term "door to door advocacy" includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.
- D. Persons making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large shall be exempt from the definitions of "peddlers", "solicitors", and "transient merchants".
- E. The provisions of this chapter shall not apply to any canvassing or soliciting for a charitable, religious, political or educational organization if such organization is registered with the Secretary of State pursuant to the provisions of Minnesota Statutes, Section 309.52 as a charitable organization or is exempted therefor pursuant to the provisions of Section 309.515.
- F. The provisions of this Chapter shall not apply to minors operating a lemonade stand.

SECTION 3. Title 4, Chapter 4, Section 4-4-3 County and City License Required; Exemptions is hereby amended by deleting it entirely and replacing it with the following language:

4-4-3 COUNTY AND CITY LICENSES REQUIRED; EXEMPTIONS:

- A. County License: No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by Minnesota statutes chapter 329, as it may be amended from time to time, if the county issues a license for the activity.
- B. City License: Except as otherwise provided by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed but are still required to register pursuant to section 4-4-11 of this chapter.
- C. Exemptions And Limitations On Exemptions:
 - 1. No license shall be required for any person to sell or attempt to sell or to take or attempt to take orders for any product grown, produced, cultivated, or raised on any farm.
 - 2. No license or registration shall be required of any person going from house to house, door to door, business to business, street to street, or other type of place to place when the activity is for the purpose of exercising that person's state or

federal constitutional rights such as the freedom of speech, press, religion and the like; except, that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

SECTION 4. Title 4, Chapter 4, Section 4-4-4 Ineligibility for a License is hereby amended by deleting it in its entirety and replacing it with the following language:

4-4-4 INELIGIBILITY FOR LICENSE:

The following shall be grounds for denying a license under this chapter:

- A. The failure of the applicant to obtain and show proof of having obtained any required county license.
- B. The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the previous five (5) years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation, within the past five (5) years, of any license issued to the applicant for the purpose of conducting business as a peddler or transient merchant.
- E. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the better business bureau, the attorney general's office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or three (3) complaints filed against the applicant within the preceding five (5) years.

SECTION 5. Title 4, Chapter 4, Section 4-4-11 Registration Requirements is hereby amended by deleting it in its entirety and replacing it with the following language:

4-4-11 REGISTRATION REQUIREMENTS:

All solicitors shall be required to register with the city. Persons engaging in door to door advocacy shall not be required to register. The term "door to door advocacy" includes door to door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. No registration fee shall be required. Immediately upon completion of the

registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be nontransferable.

SECTION 6. This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 8th day of August, 2019 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, City Administrator

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

SUMMARY ORDINANCE NO. 195

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 4 OF THE ELKO NEW MARKET
CITY CODE CONCERNING REGULATION OF PEDDLERS, SOLICITORS AND
TRANSIENT MERCHANTS**

NOTICE IS HEREBY GIVEN that, on August 8, 2019, Ordinance No. 194 was adopted by the City Council of the City of Elko New Market, Minnesota.

NOTICE IS FURTHER GIVEN that, because of the lengthy nature of Ordinance No. 194, the following summary of the ordinance has been prepared for publication.

NOTICE IS FURTHER GIVEN that the ordinance adopted by the Council amends Title 4, Chapter 4 of the Elko New Market City Code by redefining solicitors, adding additional exemptions from the provisions of Chapter 4, and revising the eligibility for licenses and registration requirements. A printed copy of the whole ordinance is available for inspection by any person during the City's regular office hours.

APPROVED for publication by the City Council of the City of Elko New Market this 8th day of August, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

By: _____
Thomas Terry, City Clerk



STAFF MEMORANDUM

SUBJECT:	Amend Professional Services Agreement Related to Right-of-Way Agent Services for Roundabout Project
MEETING DATE:	August 8, 2019
PREPARED BY:	Renee Christianson, Community Development Specialist
REQUESTED ACTION:	Approve Amendment to Professional Services Agreement between the City of Elko New Market and SRF

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

The City Council approved a Professional Services Agreement with SRF Consulting Group, Inc. in February of 2019. The Agreement provided for SRF to provide right-of-way agent services related to the proposed CSAH 2 & CSAH 91 roundabout project. Three easements are needed to accommodate construction of the roundabout and trails as currently proposed. Section 4 of the Agreement contained a provision for completing the work by July 1, 2019. To date, two easement acquisitions are fully complete, while one acquisition has not been completed. Staff is recommending that Section 4 of the agreement be amended, extending the completion date to December 31, 2019.

FINANCIAL IMPACT

There is no financial impact to the recommended action.

REQUESTED ACTION

City staff is asking the City Council to approve the Amendment to Professional Services Agreement which would extend the consultant completion date to December 31, 2019.

Attachments:

Professional Services Agreement (between City of Elko New Market and SRF)
Amendment to Professional Services Agreement

AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS AMENDMENT is made and entered into this ____ day of _____, 2019, by and between the City of Elko New Market, a Minnesota Municipal Corporation (“City”) and SRF Consulting Group, Inc. a Minnesota Corporation (“Consultant”).

RECITALS

A. The parties entered into a Professional Services Agreement dated February 25, 2019 (“Agreement”) regarding the right-of-way acquisition services for the CSAH 2 and CSAH 91 Roundabout Project (“Project”).

B. The parties desire to extend the completion date of the Agreement to address delays in acquisition of a parcel for the Project.

NOW, THEREFORE, the parties agree as follows:

1. **Amendment to Paragraph 4 of the Agreement.** Paragraph 4 of the Agreement is hereby amended to read as follows:

4. Completion Date. Consultant shall complete the services specified in the Proposal by December 31, 2019.

2. Except as specifically amended by this Amendment, the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement as of the day and year first above written.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julies, Mayor

AND: _____
Thomas Terry, City Clerk

SRF CONSULTING GROUP, INC.

By: _____

ITS: _____

PROFESSIONAL SERVICES AGREEMENT

AGREEMENT made this ___ day of _____, 2019, by and between the **CITY OF ELKO NEW MARKET**, a Minnesota municipal corporation ("City") and **SRF CONSULTING GROUP, INC.**, a Minnesota corporation ("Consultant").

IN CONSIDERATION OF THEIR MUTUAL COVENANTS, THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF SERVICES. The City retains Consultant for right of way acquisition services for the CSAH 2 and CSAH 91 Roundabout Project, CP # _____.

2. CONTRACT DOCUMENTS. The following documents shall be referred to as the "Contract Documents," all of which shall be taken together as a whole as the contract between the parties as if they were set verbatim and in full herein:

- A. This Professional Services Agreement
- B. Consultant's Proposal dated January 15, 2019 ("Proposal")

In the event of conflict among the provisions of the Contract Documents, the order in which they are listed above shall control in resolving any such conflicts with Contract Document. Contract Document "A" has the first priority and Contract Document "B" has the last priority.

3. COMPENSATION. Consultant will be paid by the City in accordance with the Proposal. The City will normally make payment within thirty-five (35) days of receipt of a properly itemized invoice following provision of the specific service.

4. COMPLETION DATE. Consultant shall complete the services specified in the Proposal by July 1, 2019.

5. DOCUMENTS. The City shall be the owner of all documents, reports, studies, analysis and the like prepared by Consultant in conjunction with this Agreement. All work products shall be in the formats, styles and numbers specified in the Proposal.

6. CHANGE ORDERS. All change orders, regardless of amount, must be approved in advance and in writing by the City. No payment will be due or made for work done in advance of such approval.

7. COMPLIANCE WITH LAWS AND REGULATIONS. In providing services hereunder, Consultant shall abide by all applicable statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided.

8. STANDARD OF CARE. Consultant shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a professional consultant under similar circumstances. No other warranty, expressed or implied, is included in this Agreement. City shall not be responsible for discovering deficiencies in the accuracy of Consultant's services.

9. INDEMNIFICATION. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless the City, its officers, agents, and employees, from and against any and all liability for claims, losses, damages and expenses, (including reasonable attorney's fees), to the extent such claims, losses, damages, or expenses are directly caused by the negligent or wrongful acts, errors, or omissions of Consultant, its employees or others for whom Consultant is legally liable, directly arising from Consultant's performance of this Agreement.

10. INSURANCE. Consultant shall secure and maintain such insurance as will protect Consultant from claims under the Worker's Compensation Acts, and from claims for bodily injury, death, or property damage which may arise from the performance of services under this Agreement. Such insurance shall be written for amounts not less than:

Commercial General Liability	\$1,000,000 each occurrence/aggregate
Professional Liability	\$1,000,000 each claim

The City shall be named as an additional insured on the general liability policy on a primary and noncontributory basis. Before commencing work the Consultant shall provide the City a certificate of insurance evidencing the required insurance coverage in a form acceptable to City.

11. INDEPENDENT CONTRACTOR. The City hereby retains Consultant as an independent contractor upon the terms and conditions set forth in this Agreement. Consultant is not an employee of the City and is free to contract with other entities as provided herein. Consultant shall be responsible for selecting the means and methods of performing the work. Consultant shall furnish any and all supplies, equipment, and incidentals necessary for Consultant's performance under this Agreement. City and Consultant agree that Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's agents or employees are in any manner agents or employees of the City. Consultant shall be exclusively responsible under this Agreement for Consultant's own FICA payments, workers compensation payments, unemployment compensation payments, withholding amounts, and/or self-employment taxes if any such payments, amounts, or taxes are required to be paid by law or regulation.

12. SUBCONTRACTORS. Consultant shall not enter into subcontracts for services provided under this Agreement without the express written consent of the City. Consultant shall comply with Minnesota Statute § 471.425. Consultant must pay subcontractor for all undisputed services provided by subcontractor within ten days of Consultant's receipt of payment from City. Consultant must pay interest of 1.5 percent per month or any part of a month to subcontractor on any undisputed amount not paid on time to subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10.

13. CONTROLLING LAW/VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. In the event of litigation, the exclusive venue shall be in the District Court of the State of Minnesota for Scott County

14. MINNESOTA GOVERNMENT DATA PRACTICES ACT. Consultant must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to (1) all data provided by the City pursuant to this Agreement, and (2) all data, created, collected, received, stored, used, maintained, or disseminated by Consultant pursuant to this Agreement. Consultant is subject to all the provisions of the Minnesota Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes Section 13.08, as if it were a government entity. In the event Consultant receives a request to release data, Consultant must immediately notify City. City will give Consultant instructions concerning the release of the data to the requesting party before the data is released. Consultant agrees to defend, indemnify, and hold City, its officials, officers, agents, employees, and volunteers harmless from any claims resulting from Consultant's officers', agents', city's, partners', employees', volunteers', assignees' or subcontractors' unlawful disclosure and/or use of protected data. The terms of this paragraph shall survive the cancellation or termination of this Agreement.

15. ASSIGNMENT. Neither party shall assign this Agreement, or any interest arising herein, without the written consent of the other party.

16. WAIVER. Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.

17. ENTIRE AGREEMENT. The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

18. TERMINATION. This Agreement may be terminated by the City for any reason or for convenience upon written notice to the Consultant. In the event of termination, the City shall pay the Consultant for completed work.

Dated: February 14, 2019

CITY OF ELKO NEW MARKET

By: _____

Joe Julius, Mayor

And: _____

Tom Terry, City Administrator

Dated: 2-25, 2019

SRF CONSULTING GROUP, INC.

BY: 

Name: Paul Martens

Title: CFO



SRF No. 12460.PP

January 15, 2019

Ms. Renee Christianson
Community Development Specialist
City of Elko New Market
601 Main Street
Elko New Market, MN 55054

Subject: Proposal for Right of Way Acquisition Services for the CSAH 2 & CSAH 91
Roundabout Project.

Dear Ms. Christianson:

We appreciate your interest in utilizing SRF's professional right of way services on the above referenced project. All acquisition activities will comply with the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, as well as all State and Federal guidelines. SRF has been recognized for its accurate and efficient record keeping by the MNDOT State Aid personnel on several federally funded projects.

The SRF team includes right of way professionals who have a wide variety of experience in highway, municipal, utility, relocation and community redevelopment projects. The Elko New Market project will be led by Cindy Wiste, SRF Senior Associate, who has over 13 years of experience in the right of way profession.

Acquisition Activities

Project Management

SRF's Project Manager will maintain contact with the City of Elko New Market throughout the project and provide weekly status reports.

Title Analysis

Provided by the City of Elko New Market.

Owner Notifications and Field Title Reports

SRF will provide owners of the three tax parcels with notification of the project; prepare full field title reports, including tenant information.(If any)

Assumptions: 3 Owners (3 Tax Parcels)

Appraisals and Review Appraisals

Appraisals will be provided by Marlo Headrick, SRF Consulting Group, Inc. Review Appraisals will be provided by Doug Johnson, DKJ Appraisal, LLC.

Assumptions: 3 Appraisals and 1 Appraisal Review

www.srfconsulting.com

1 Carlson Parkway North, Suite 150 | Minneapolis, MN 55447-4453 | 763.475.0010 Fax: 1.866.440.6364

An Equal Opportunity Employer

Offer Packages and Document Preparation

SRF will prepare the offer letter, statement of compensation, appraisal notification and receipt, and any other documents and forms required by the City. The City will provide sample conveyance documents to be used for this project.

Assumptions: 3 Owners (3 Tax Parcels)

Negotiation Activities

The offers will be presented to the owners, in person if possible, at the earliest possible time the affected owner is willing to meet with SRF personnel. In the case of an out-of-town owner, or when required by time constraints, the offer will be presented by certified mail, but continuing attempts will be made to contact the owner and meet at the earliest possible time after mailing the offer. The owner will receive a copy of the appraisal report, unless we are directed otherwise.

All concerns and issues raised by an owner will be communicated to the City. Communications will be by means of periodic status reports, telephone or written correspondence, depending upon the nature of the issue. We will make recommendations and prepare an administrative settlement form for the parcel if a settlement in excess of the certified offer seems appropriate.

Assumptions: 3 Owners (3 Tax Parcels). Also, there is no minimum compensation, or loss of Going Concern Analysis included in this scope.

Mortgage Consents

SRF assumes that the City will not require mortgage holder consents or subordinations.

Submittal of Parcel Files

The acquisition file will include a contact diary in which every contact or attempted contact with the property owner is noted, whether by the agent responsible for the parcel or by other SRF staff. This diary will include relevant detail about the substance of each contact. SRF will complete an internal review of all parcel files and submit a complete acquisition file to the City for payment and recordation.

Schedule

SRF will complete this work within a mutually agreed-upon time schedule. The estimated cost for our services relating to this project is \$13,700, which includes time and expenses.

This fee breaks down as Follows for 3 Tax Parcels

• Appraisal	\$ 6,500 (billed lump sum)
• Review Appraisal (assumes 1 review)	\$ 400
• Document Preparation, Negotiations, File Submittal	\$ 6,300
• Expenses (mileage, postage, etc.)	\$ 500
TOTAL	\$13,700

Basis of Payment/Budget

We propose to be reimbursed for our services on an hourly basis for the actual time expended. Direct project expenses, such as printing, supplies, reproduction, etc., will be billed at cost, and mileage will be billed at the current allowable IRS rate for business miles. Invoices are submitted monthly for work performed during the previous month. Payment is due within 30 days. It is understood that if the scope or extent of work changes or additional services are requested, the cost will be adjusted

Ms. Renee Christianson
Community Development Specialist

January 15, 2019
Page 3

accordingly. Before any out-of-scope or additional service work is initiated; however, we will submit a budget for the new work and will not begin work until we receive authorization from you.

Acceptance/Notice to Proceed

A signed copy of this proposal or a separate letter of authorization either mailed or emailed to our office, will serve as our notice to proceed.

We sincerely appreciate your consideration of this proposal and look forward to working with you on this project. Please feel free to contact us if you have any questions or need additional information.

Sincerely,

SRF CONSULTING GROUP, INC.



Ken Helvey
Principal

KH/cjw/rb

APPROVED:



(Signature)

Name Thomas Terry

Title City Administrator

Date 2-14-19

This cost proposal is valid for a period of 90 days. SRF reserves the right to adjust its cost estimate after 90 days from the date of this proposal.

ATTACHMENT A
STANDARD TERMS AND CONDITIONS

The Standard Terms and Conditions together with the attached Proposal for Professional Services constitute the entire Agreement between the CLIENT and SRF Consulting Group, Inc. ("SRF") and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

1. STANDARD OF CARE

- a. The standard of care for all professional services performed or furnished by SRF under this Agreement will be the care and skill ordinarily used by members of SRF's profession practicing under similar circumstances at the same time and in the same locality. SRF makes no warranties, expressed or implied, under the Agreement or otherwise, in connection with SRF's service.
- b. The CLIENT shall be responsible for, and SRF may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to SRF pursuant to this Agreement. SRF may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

2. INDEPENDENT CONTRACTOR

All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and SRF and not for the benefit of any other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or SRF. SRF's services under this Agreement are being performed solely for the CLIENT's benefit, and no other entity shall have any claims against SRF because of this Agreement or the performance or nonperformance of services hereunder.

3. PAYMENT TO SRF

Invoices will be prepared in accordance with SRF's standard invoicing practices and will be submitted to the CLIENT by SRF monthly, unless otherwise agreed. Invoices are due and payable within thirty (30) days of receipt. If the CLIENT fails to make any payment due SRF for services and expenses within forty-five (45) days after receipt of SRF's invoice thereafter, the amounts due SRF will be increased at the rate of 1-1/2% per month (or the maximum rate of interest permitted by law, if less). In addition, SRF may, after giving seven days written notice to the CLIENT, suspend services under this Agreement until SRF has been paid in full of amounts due for services, expenses, and other related charges.

4. OPINION OF PROBABLE CONSTRUCTION COST

Any opinions of costs prepared by SRF represent its judgment as a design professional and are furnished for the general guidance of the CLIENT. Since SRF has no control over the cost of labor, materials, market condition, or competitive bidding, SRF does not guarantee the accuracy of such cost opinions as compared to contractor or supplier bids or actual cost to the CLIENT.

5. INSURANCE

SRF will maintain insurance coverage for Workers' Compensation, General Liability, Automobile Liability and Professional Liability and will provide certificates of insurance to the CLIENT upon request.

6. INDEMNIFICATION AND ALLOCATION OF RISK

- a. To the fullest extent permitted by law, SRF agrees to indemnify and hold harmless the CLIENT, their officers, directors and employees against all damages, liabilities or costs (including reasonable attorneys' fees and defense costs) to the extent caused by SRF's negligent acts under this Agreement and that of its subconsultants or anyone for whom SRF is legally liable.
- b. To the fullest extent permitted by law, the CLIENT agrees to indemnify and hold harmless SRF, their officers, directors and employees against all damages, liabilities or costs to the extent caused by the CLIENT's negligent acts under this Agreement and anyone for whom the CLIENT is legally liable.

7. TERMINATION OF AGREEMENT

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, the CLIENT shall pay to SRF all amounts owing to SRF under this Agreement, for all work performed up to the effective date of termination.

8. OWNERSHIP AND REUSE OF DOCUMENTS

All documents prepared or furnished by SRF pursuant to this Agreement are instruments of service, and SRF shall retain an ownership and property interest therein. Reuse of any such documents by the CLIENT shall be at CLIENT's sole risk; and the CLIENT agrees to indemnify, and hold SRF harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by the CLIENT or by others acting through the CLIENT.

9. USE OF ELECTRONIC MEDIA

- a. Copies of Documents that may be relied upon by the CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by SRF. Files in electronic media format of text, data, graphics, or of other types that are furnished by SRF to the CLIENT are only for convenience of the CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- b. When transferring documents in electronic media format, SRF makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by SRF at the beginning of this Assignment.
- c. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- d. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of this data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within sixty (60) days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the sixty (60) day acceptance period will be corrected by the party delivering the electronic files. SRF shall not be responsible to maintain documents stored in electronic media format after acceptance by the CLIENT.

10. FORCE MAJEURE

SRF shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond SRF's reasonable control.

11. ASSIGNMENT

Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.

12. BINDING EFFECT

This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.

13. SEVERABILITY AND WAIVER OF PROVISIONS

Any provisions or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the CLIENT and SRF, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

14. SURVIVAL

All provisions of this Agreement regarding Ownership of Documents and Reuse of Documents, Electronic Media provisions, Indemnification and Allocation of Risk, and Dispute Resolution shall remain in effect.

15. DISPUTE RESOLUTION

If negotiation in good faith fails to resolve a dispute within the thirty (30) days of notice of the dispute, or time period specified by applicable law, then the parties agree that each dispute, claim or controversy arising from or related to this Agreement or the relationships which result from this Agreement shall be subject to mediation as a condition precedent to initiating legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No legal or equitable action may be instituted for a period of ninety (90) days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties. Mediation shall be held in a location mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a mediated settlement agreement, which agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

16. CONTROLLING LAW

This Agreement is to be governed by the law of the principal place of business of SRF.

17. SITE SAFETY

SRF shall not at any time supervise, direct, control or have authority over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety and security precautions and programs in connection with the work performed by any Contractor for the Project, nor for any failure of any Contractor to comply with laws and regulations applicable to such Contractor's work, since these are solely the Contractor's rights and responsibilities. SRF shall not be responsible for the acts or omissions of any Contractor or Owner, or any of their agents or employees, or of any other persons (except SRF's own employees and consultants), furnishing or performing any work for the Project, except as specifically outlined in SRF's scope of services.



STAFF MEMORANDUM

SUBJECT:	Joint Powers Agreement for Assessment Services
MEETING DATE:	August 8, 2019
PREPARED BY:	Kellie Stewart, Accountant
REQUESTED ACTION:	Approve Joint Powers Agreement for Assessment between City of Elko New Market and Scott County.

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

The City of Elko New Market currently has a Joint Powers Agreement for Assessment Services with Scott County that will expire at the end of 2019.

DISCUSSION:

The City of Elko New Market, along with all other cities and townships in Scott County, contract with the County to provide property assessment services. This approach is the most cost effective means for the City to provide for a fair and equitable assessment of properties.

Scott County is proposing a Joint Power Agreement with the City of Elko New Market for assessment services for years 2020, 2021, and 2022. All work done necessary to the establishment of the estimated market value for each parcel shall be performed by the Scott County Assessor or by one or more of the licensed assessors under his direction and supervision.

Scott County Assessor's Office is proposing a modest increase in each year of the contract (approximately 3% each year) to account for projected increases in staffing expenses and general growth in number of parcels and structures. The assessment fee for the proposed 2020-2022 contract begins at \$33,700 which is a 6% increase from the 2017-2019 contract.

The City Council is being asked to approve the attached Joint Powers Agreement for Assessment Services with Scott County.

BUDGET IMPACT:

The budget impact for this item is \$33,700 in 2020, \$34,700 in 2021, and \$35,700 in 2022.

Attachments:

- Joint Powers Agreement for Assessments of Elko New Market City



SCOTT COUNTY
COMMUNITY SERVICES DIVISION

GOVERNMENT CENTER · 200 FOURTH AVENUE WEST · SHAKOPEE, MN
55379-1220

**JOINT POWERS AGREEMENT
FOR ASSESSMENT OF ELKO NEW MARKET CITY**

THIS JOINT POWERS AGREEMENT is made and entered into by and between Elko New Market City and the County of Scott, State of Minnesota, pursuant to Minnesota Statute 273.072 and Minnesota Statute 471.59.

WHEREAS, Elko New Market City wishes to enter into an agreement with the County of Scott to provide for the assessment of the property in said Elko New Market City by the County Taxation Department; and

WHEREAS, it is the wish of said County to cooperate with said Elko New Market City to provide for a fair and equitable assessment of property;

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN CONTAINED, IT IS AGREED AS FOLLOWS:

1. That Elko New Market City, which lies within the County of Scott and constitutes a separate assessment district, shall have its property assessed by the County Assessor of Scott County, for the assessment years 2020, 2021, and 2022. All work done necessary to the establishment of the estimated market value for each parcel shall be performed by the Scott County Assessor or by one or more of the licensed assessors under his direction and supervision.
2. It is hereby agreed that Elko New Market City and all of its officers, agents, and employees shall render full cooperation and assistance to said County to facilitate the provision of the services contemplated hereby.
3. In consideration for said assessment services, Elko New Market City hereby agrees to pay the County of Scott the sum of \$33,700 for assessment year 2020, \$34,700 for assessment year 2021, and \$35,700 for assessment year 2022. Such payments are to be made to the Scott County Treasurer on or before June 1, of the year of the assessment.
4. The County agrees that in each year of this Agreement it shall, by its County Assessor or one or more staff appraisers; actually review at least twenty percent (20%) of the parcels within this taxing jurisdiction according to statute. It is further agreed that the County shall have on file documentation of those parcels physically inspected for each year of this Agreement.



SCOTT COUNTY
COMMUNITY SERVICES DIVISION

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55379-1220

5. The County agrees that in each year of this Agreement it shall provide the following data summarized by property usage class (i.e. residential, commercial, industrial, utility, apartments, etc.) for each assessment year of 2020, 2021, and 2022:

- 1) Taxable Market Valuation
- 2) Tax Capacity
- 3) Taxable Market Valuation – New Construction
- 4) Referenda Market Value
- 5) Number of Parcels

Such data will be available per the following schedule:

April 1, 2020 – Assessment Year 2019/Payable Year 2020 Final Data
April 1, 2020 – Assessment Year 2020/Payable Year 2021 Preliminary Data
August 1, 2020 – Assessment Year 2020/Payable Year 2021 Preliminary Data (updated)
April 1, 2021 – Assessment Year 2020/Payable Year 2021 Final Data
April 1, 2021 – Assessment Year 2021/Payable Year 2022 Preliminary Data
August 1, 2021 – Assessment Year 2021/Payable Year 2022 Preliminary Data (updated)
April 1, 2022 – Assessment Year 2021/Payable Year 2022 Final Data
April 1, 2022 – Assessment Year 2022/Payable Year 2023 Preliminary Data
August 1, 2022 – Assessment Year 2022/Payable Year 2023 Preliminary Data (updated)
April 1, 2023 – Assessment Year 2022/Payable Year 2023 Final Data

6. Each named party to this Agreement shall be liable for its own acts to the extent provided for by law and hereby agrees to indemnify, hold harmless and defend the other named parties to this Agreement, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including reasonable attorney's fees with the other, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants, or employees, in the execution, performance, or failure to adequately perform its obligations.

This provision to indemnify and hold harmless does not constitute a waiver by any named party to limitations on liability provided by Minnesota Statute Chapter 466. Further, all workers' compensation claims shall be handled in the jurisdiction in which the agent is employed.



SCOTT COUNTY
COMMUNITY SERVICES DIVISION

GOVERNMENT CENTER • 200 FOURTH AVENUE WEST • SHAKOPEE, MN
55379-1220

IN WITNESS WHEREOF, Elko New Market City has executed this Agreement by its Mayor and City Administrator/Manager, or its Township Chairperson, by the authority of its governing body and the County of Scott has executed this Agreement by its Chairperson, County Administrator, and County Assessor pursuant to the authority of the Board of Commissioners intending to be bound thereby.

ELKO NEW MARKET CITY:

COUNTY OF SCOTT:

Approved as to form: _____

Scott County Attorney



STAFF MEMORANDUM

SUBJECT:	Zoning Ordinance Amendment - R4 Zoning District Standards
MEETING DATE:	August 8, 2019
PREPARED BY:	Haley Sevensing, Community Development/Administrative Intern
REQUESTED ACTION:	Adopt Ordinance No. 196 Amending the Zoning Ordinance

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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5 YEAR GOALS:

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- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

At the June 2019 Planning Commission Meeting there was discussion regarding internal building setback and landscaping requirements for the R-4 High Density Residential District. The discussion began in response to receiving a concept plan for a development on an R-4 zoned property. While reviewing the concept plan, Staff felt that certain standards that apply to the R-4 High Density Residential District were unsupportive of the purpose of the R-4 district, which is to create areas for multi-family use at higher densities. In an effort to better support high-density affordable housing development, Staff proposed the following amendments:

Section 11-25D-9 (C)(1) - R-4 High Density Residential District

C. Setbacks:

1. Front: Thirty feet (30') from public right-of-way. ~~Thirty feet (30') from back of curb line of private drives, guest parking areas.~~ Twenty five feet (25') from back of curb line of private drives. Fifteen feet (15') from private parking areas.

Section 11-10-3 (B)(1) - Landscaping Requirements

B. R-3 Medium Density Residential And R-4 High Density Residential Districts:

1. ~~At least fifty percent (50%)~~ thirty percent (30%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.

Following discussion, the Planning Commission directed Staff to do additional research that visually compared setbacks and landscaping at apartment buildings in the area and to prepare a public hearing regarding the proposed ordinance amendment. A public hearing was held before the Planning Commission on July 30, 2019 and no comments were received regarding the proposed changes.

DISCUSSION:

Based on the information provided to the Planning Commission, the recommendations of City staff, and discussion at the meeting, the Planning Commission has unanimously recommended approval of the request to amend section 11-10-3 and 11-25-9 of the City's Zoning Ordinance as depicted in draft Ordinance No. 196. The City Council is being asked to adopt Ordinance No. 196.

CITY ATTORNEY RECOMMENDATION:

The City Attorney has reviewed the Planning Commission recommendation, and draft Ordinance No. 196 and has recommended approval of the draft ordinance.

BUDGET IMPACT:

The budget impact for this item to date is the cost of City staff time and City Attorney review time. Future budget implications will include the cost to revise the City Code.

Attachments:

Draft Ordinance No. 196

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 196

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET
CITY CODE TITLE 11, CHAPTER 10, CONCERNING
LANDSCAPING REQUIREMENTS AND TITLE 11, CHAPTER 25
CONCERNING RESIDENTIAL DISTRICT STANDARDS**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET,
MINNESOTA ORDAINS:

SECTION 1. Section 11-10-3(B)(1) of the Elko New Market City Code is hereby amended to read as follows:

At least thirty percent (30%) of the total site area shall be landscaped. For purposes of this subsection, landscaping shall also include prairies, wetlands, woodlands, ponds, pervious play areas, outdoor tennis courts, and outdoor swimming pools.

SECTION 2. Section 11-25D-9(C)(1) of the Elko New Market City Code is hereby amended to read as follows:

Front: Thirty feet (30') from public right-of-way. Twenty five feet (25') from back of curb line of private drives. Fifteen feet (15') from private parking areas.

SECTION 3. This Ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 8th day of August, 2019 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, Acting City Clerk



STAFF MEMORANDUM

SUBJECT:	Zoning Ordinance Amendment - Solar Energy Systems
MEETING DATE:	August 8, 2019
PREPARED BY:	Haley Sevening, Community Development/Administrative Intern
REQUESTED ACTION:	Adopt Ordinance No. 197 and the Accompanying Summary Ordinance No. 198 Amending the Zoning Ordinance

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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5 YEAR GOALS:

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- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

The City of Elko New Market has initiated a Zoning Ordinance text amendment regarding the maximum area for ground mounted solar energy systems in the Institutional Zoning District. The amendment is in response to a proposed ground mounted solar energy system project proposed at the City’s Public Works Facility (25499 Natchez Ave in Elko New Market), which is zoned institutional.

Solar energy systems are regulated under section 11-14-4 of the Zoning Ordinance and are allowed as a permitted accessory use in all zoning districts. However, the City Code limits the maximum area for ground mounted energy systems to the maximum area allowed for accessory structures. The current regulations applicable to the maximum area of a solar energy system are as follows:

Section 11-14-4 (B)(8) – Alternative Energy Systems – Solar Energy Systems

8. Maximum Area: Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twenty five percent (25%) of the rear yard, whichever is less.

Section 11-6-6 (B)(1) – Accessory Buildings, Structures and Uses – Area Limitations

B. Detached Buildings:

1. Detached accessory buildings shall comply with the following area limitations:

Lot Area	Maximum Floor Area Allowed Without Conditional Use Permit	Maximum Floor Area Allowed With Conditional Use Permit
<i>1 acre and under</i>	<i>250 square feet, except as provided in subsection B2 of this section</i>	<i>1,000 square feet</i>
<i>Over 1 acre</i>	<i>1,000 square feet</i>	<i>1,500 square feet</i>

The ground mounted solar system at the Public Works Facility is proposed to be 3,730 square feet. To accommodate the proposed solar system, the City would like to amend section 11-14-4 to add a separate maximum area standard for institutionally zoned properties. The proposed amendment would allow solar energy systems to be up to 4,000 square feet on parcels 10-20 acres in size and up to 8,000 square feet on parcels 20+ acres in size. The new standards would apply only to large institutionally zoned parcels. Institutional zoning districts are where schools, government buildings, and religious institutions would typically locate. All other zoning districts, and smaller institutionally zoned parcels, would be subject to the accessory structure area limitations.

A few additional amendments, regarding the purpose of solar, roof mounting, and calculation of maximum area are also proposed. These amendments are minor, but support access to

solar (in all zoning districts) and make interpretation of the Ordinance easier. A public hearing was held before the Planning Commission on July 30, 2019 and no comments were received regarding the proposed changes.

DISCUSSION:

Based on the information provided to the Planning Commission, the recommendations of City staff, and discussion at the meeting, the Planning Commission has unanimously (4-0) recommended approval of the request to amend section 11-14-4 of the City's Zoning Ordinance as depicted in draft Ordinance No. 197. The City Council is being asked to adopt Ordinance No. 197 and accompanying Summary Ordinance No. 198.

CITY ATTORNEY RECOMMENDATION:

The City Attorney has reviewed the Planning Commission recommendation, and draft Ordinances No. 197 and 198 and has recommended approval of the draft ordinances.

BUDGET IMPACT:

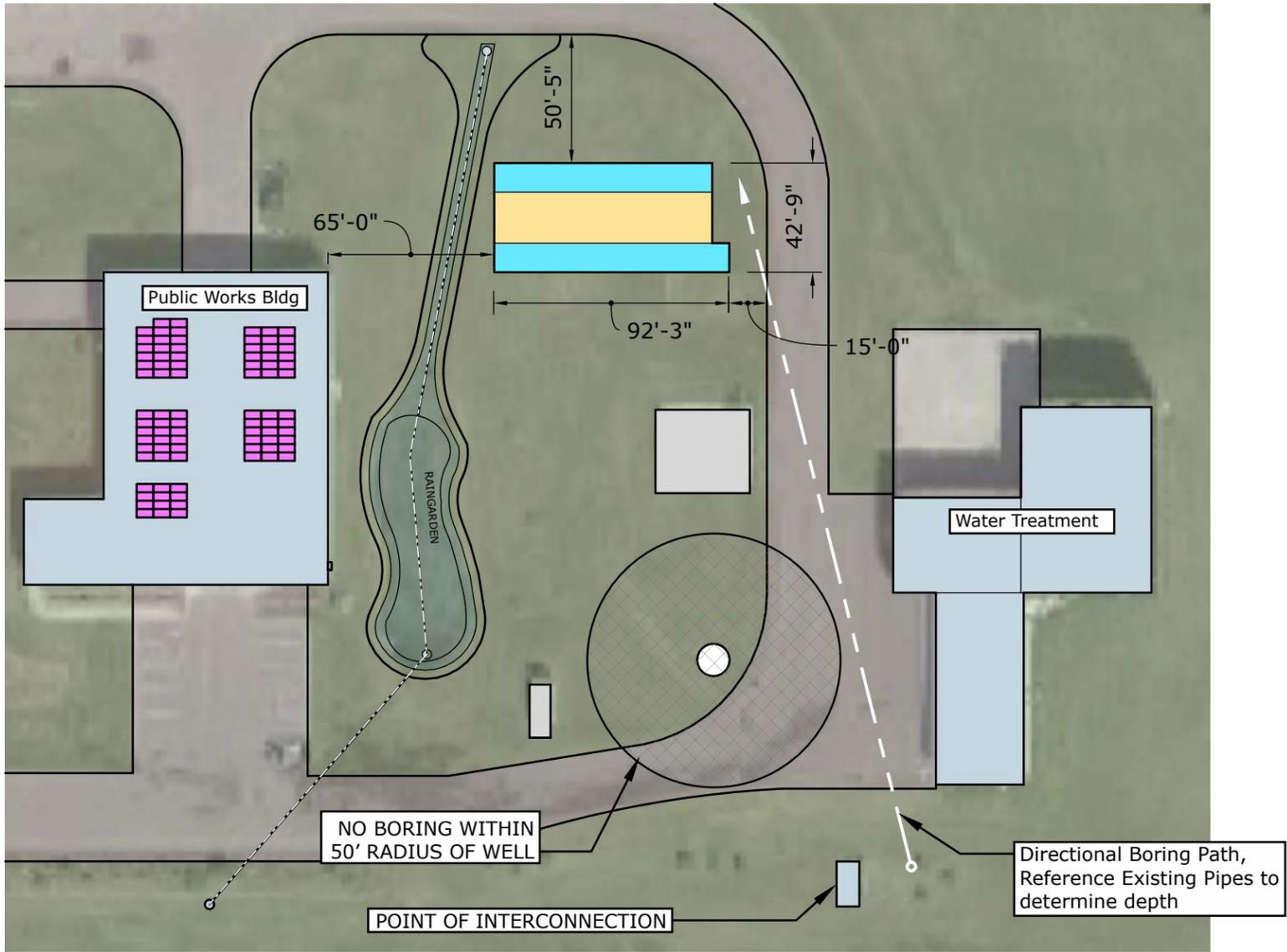
The budget impact for this item to date is the cost of City staff time and City Attorney review time. Future budget implications will include the cost to revise the City Code.

Attachments:

Map of Property with Proposed Solar System Location
Draft Ordinance No. 197
Draft Summary Ordinance No. 198



1 Parcel Map with Proposed Array
SCALE: 1" = 60'



2 Site Plan - Proposed Array Placement

SCALE: 1" = 60'

System Color Code

- Existing System #1 of 2
- Proposed System #2 of 2

Array Size and Property Information

Array Footprint	2019 s.f.
Inter-row Spacing	1711 s.f.
<i>Total Array Footprint</i>	<i>3730 s.f.</i>
Total Parcel	1,656,804.6 s.f.
<i>% Property Coverage of Array</i>	<i>0.0225%</i>

Code and Zoning Analysis

Zoned Institutional
 Accessory structures not to exceed 1000 S.F.
 < 1% of property coverage





 GREEN² COMPANIES
iDEAL ENERGIES
 GREEN² ELECTRIC

Installer
 iDEAL Energies/
 Green² Electric, LLC.

5810 Nicollet Ave
 Minneapolis, MN 55419
 612-928-5008

NABCEP
 #PV-041616-012599

Electrical Contractor
 License #EA719118

Xcel Customer Name
 Elko New Market City Of

Project Name
 City of Elko New Market -
 Public Works

Project # OID3644189
 Premise # 304526740
 Meter # 18530025
 Total DC Out - 39.96 kW
 Total AC Out - 40 kW

Installation Address
 25499 Natchez Ave
 Elko New Market, MN 55020

Building Svc. Voltage
 480/277, 3PH / 4W

DRAWN BY
 BB | RR

ISSUE

#	Date	Description
1	01-04-19	Xcel App Set
2	05-31-19	Permit Set

DESCRIPTION
 Proposed Final
 Array Layout

C.4

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

ORDINANCE NO. 197

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET
CITY CODE TITLE 11, CHAPTER 14,
CONCERNING SOLAR ENERGY SYSTEMS**

THE CITY COUNCIL OF THE CITY OF ELKO NEW MARKET, MINNESOTA
ORDAINS:

SECTION 1. Section 11-14-4(B) of the Elko New Market City Code is hereby amended in its entirety to read as follows:

1. Purpose: Solar energy systems shall serve only the parcel on which they are located.
2. Exemption: Passive or building integrated solar energy systems are exempt from the requirements of this chapter and shall be regulated as any other building element.
3. Height: Roof mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground mounted solar energy systems shall not exceed fifteen feet (15') in height.
4. Location: In urban reserve and residential zoning districts, ground mounted solar energy systems shall be limited to the rear yard. In commercial, industrial and institutional districts, ground mounted solar energy systems may be permitted in front yards, side yards adjacent to public rights of way and rear yards.
5. Setbacks: Ground mounted solar energy systems shall comply with all accessory structure setbacks in the applicable zoning district. Roof mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.
6. Roof Mounting: Roof mounted solar collectors may be flush mounted, bracket mounted, or ballasted. Bracket mounted and ballasted solar collectors shall be permitted only when a determination is made by the city building official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.
7. Easements: Solar energy systems shall not encroach on public drainage, utility roadway or trail easements.
8. Screening: Solar energy systems shall be screened from view to the extent possible without impacting their function.
9. Maximum Area:

a. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twenty five percent (25%) of the rear yard, whichever is less, except as otherwise provided in subsection b.

b. On Institutionally zoned parcels with a lot area of 10 acres or greater, ground mounted solar energy systems shall comply with the following area limitations:

Lot Area	Maximum Area Allowed
10 acres to 20 acres	4,000 square feet
Over 20 acres	8,000 square feet

c. Calculation of Area: The area of a ground mounted solar energy system shall be comprised of the total solar energy system footprint, including the space between systems, calculated based on the extent of the perimeter of the entire system.

10. Aesthetics: All solar energy systems shall minimize glare toward vehicular traffic and adjacent properties.

11. Feeder Lines: The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

SECTION 2. This Ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 8th day of August, 2019 by the City Council for the City of Elko New Market.

CITY OF ELKO NEW MARKET

BY: _____
Joe Julius, Mayor

ATTEST:

Thomas Terry, Acting City Clerk

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

SUMMARY ORDINANCE NO. 198

**AN ORDINANCE AMENDING CITY OF ELKO NEW MARKET
CITY CODE TITLE 11, CHAPTER 14,
CONCERNING SOLAR ENERGY SYSTEMS**

NOTICE IS HEREBY GIVEN that, on August 8, 2019, Ordinance No. 197 was adopted by the City Council of the City of Elko New Market, Minnesota.

NOTICE IS FURTHER GIVEN that, because of the lengthy nature of Ordinance No. 197, the following summary of the ordinance has been prepared for publication.

NOTICE IS FURTHER GIVEN that the ordinance adopted by the Council amends Title 11, Chapter 14 of the Elko New Market City Code by amending the following solar energy systems standards: purpose, roof mounting, and maximum area. A printed copy of the complete ordinance is available for inspection by any person during the City's regular office hours.

APPROVED for publication by the City Council of the City of Elko New Market this 8th day of August, 2019.

CITY OF ELKO NEW MARKET

By: _____
Joe Julius, Mayor

By: _____
Thomas Terry, Acting City Clerk



STAFF MEMORANDUM

SUBJECT:	Request to Amend Conditional Use Permit #C1-2017
MEETING DATE:	August 8, 2019
PREPARED BY:	Haley Sevening, Community Development/Administrative Intern
REQUESTED ACTION:	Adopt Resolution No. 19-48 Granting Approval of the Request to Amend Conditional Use Permit #C1-2017 to Allow an Additional Accessory Drive-Through Facility

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
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5 YEAR GOALS:

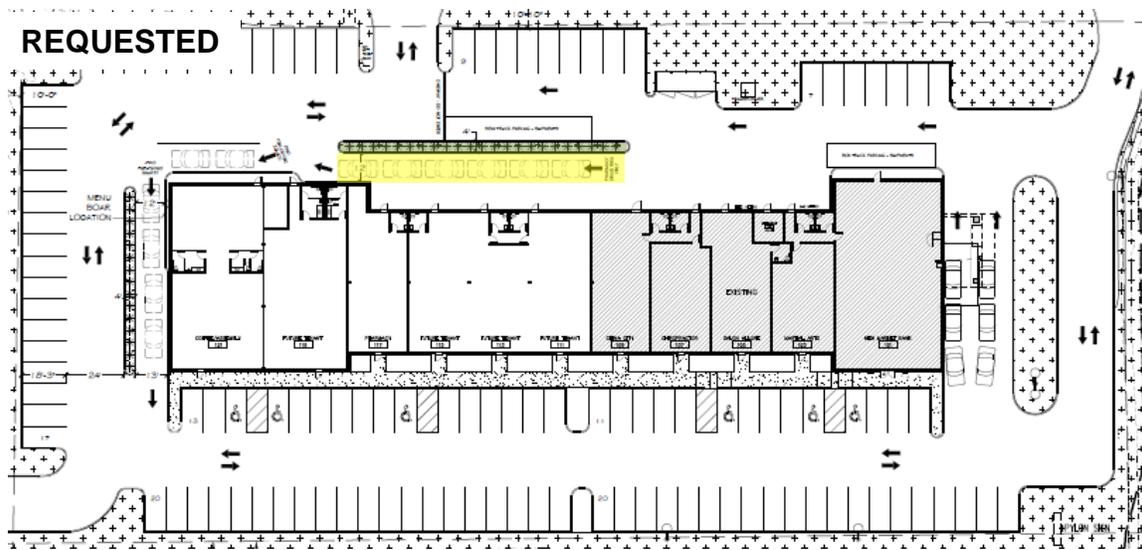
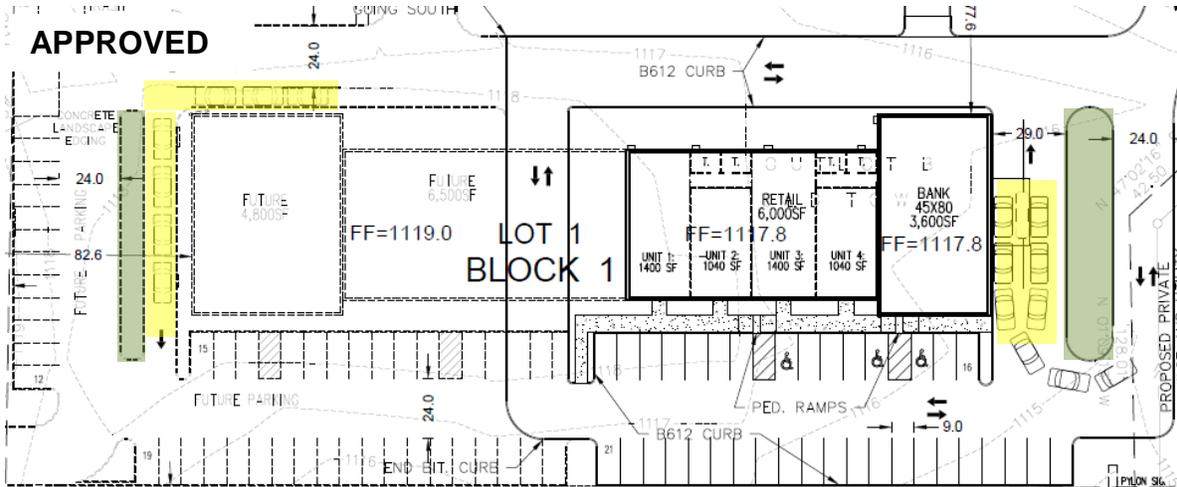
- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
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- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Greystone Construction Company has made application requesting to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility in connection with Phase 2 of the Elko New Market Retail Center, located at the northwest quadrant of Co Rd 2 and Dakota Avenue. Conditional Use Permit #C1-2017 was originally approved at the time of Preliminary and Final Plat of New Market Bank Addition (August 28, 2017), and allowed an accessory drive-through facility on each end of the retail center. Greystone's request for an additional accessory drive-through facility would allow a third drive through on the northern side of the building. At this time, the additional drive through is requested to serve a pharmacy tenant; however, in the future it could serve other types of tenants.



CONDITIONAL USE PERMIT REQUEST

The City Council must carefully consider the circumstances and criteria for granting conditional use permits. The City's Zoning Ordinance states the following:

The purpose of a conditional use permit is to provide the city with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the city may consider the nature of the adjoining land or buildings, the effect upon

traffic into and from the premises, or on any adjoining streets, and all other or further factors as the city shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

Section 11-3-2 (C) of the Zoning Ordinance identifies the following criteria for granting a conditional use permit:

C. Criteria: The planning commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- 1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.*
- 2. The proposed use is or will be compatible with present and future land uses of the area.*
- 3. The proposed use conforms with all performance standards contained in this title.*
- 4. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.*
- 5. Traffic generation by the proposed use is within capabilities of streets serving the property.*

In granting the conditional use permit, the criteria outlined in Section 11-3-2 (C) would need to be met / justified. In addition, Section 11-26A-4 outlines specific standards that must be met for accessory drive-through facilities. Those standards are as follows:

Accessory drive-through facilities; provided, that:

- A. Not less than one hundred twenty feet (120') of segregated automobile stacking shall be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.*
- B. The stacking lane and its access shall be designed to control traffic in a manner to protect the buildings and will not interfere with onsite traffic circulation or access to the required parking space.*
- C. No part of the public street or boulevard may be used for stacking of automobiles.*
- D. The stacking lane, order board telecom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.*
- E. The drive-through window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.*
- F. A lighting and photometric plan will be required that illustrates the drive-through service lane lighting and shall comply with section 11-4-7 of this title.*

STAFF RECOMMENDATION

In evaluating the request for an additional **accessory drive-through facility** using the City's criteria for granting a conditional use permit and the standards specific to an accessory drive-through facility, Staff's opinion is that the permit can be justified for the following reasons:

- 1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official city comprehensive plan.** The proposed accessory drive-through facility is consistent with

the comprehensive plan and permitted in the Residential Mixed Use land use category with an approved conditional use permit.

2. **The proposed use is or will be compatible with present and future land uses of the area.** The 2030 Comprehensive Plan guides the property to Residential Mixed Use and the draft 2040 Comprehensive Plan guides the property to Commercial. Both land uses permit accessory uses such as drive-through facilities.
3. **The proposed use conforms with all performance standards contained in this title.** The drive-through facility proposed on the north side of the building conforms with all applicable performance standards.
4. **The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.** An additional drive-through facility can be accommodated by existing public services.
5. **Traffic generation by the proposed use is within capabilities of streets serving the property.** Traffic generation by the proposed drive-through facility will not go beyond the capabilities of the streets serving the property.
6. **Not less than one hundred twenty feet (120') of segregated automobile stacking shall be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.** The drive-through facility proposed on the north side of the building has been designed to meet City Code requirements, including the amount of required vehicle stacking space.
7. **The stacking lane and its access shall be designed to control traffic in a manner to protect the buildings and will not interfere with onsite traffic circulation or access to the required parking space.** The site has been designed to allow circulation options within the site and around the building; the proposed drive-through facility will not interfere with access into or within the site. Potential traffic conflicts will be minimized through signage and pavement markings.
8. **No part of the public street or boulevard may be used for stacking of automobiles.** The accessory drive-through facility has been designed in a manner that will prevent vehicle stacking into public streets or rights of way.
9. **The stacking lane, order board telecom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.** The proposed vehicle stacking lane and drive-through window have been located on the north side of the building, which does not face residentially zoned properties. The design is such that vehicles will be able to maneuver throughout the site with minimal traffic conflicts.
10. **The drive-through window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.** The site has been designed to screen the proposed drive-through facility from view of adjoining residential zoning districts and public street rights-of-way by way of landscaping within the proposed curbed island.

And with the following conditions:

1. The drive-through lane shall be constructed as shown on the plan sheet dated February 12, 2019 with revisions on July 3, 2019 and July 15, 2019.

2. Landscape screening shall be provided on the north side of the northerly drive-through to screen it from public street rights-of-way. Landscape screening can be placed within the raised islands.
3. A lighting plan meeting the requirements of Section 11-4-7 of the City Code will be required prior to building permit approval.

DISCUSSION:

Based on the information provided to the Planning Commission, the recommendations of City staff, public comment received and discussion at the meeting, the Planning Commission has unanimously recommended approval of the conditional use permit request. The City Council is being asked to adopt Resolution No. 19-48 granting approval of the request to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility.

BUDGET IMPACT:

The budget impact for this item is the cost of staff time and City attorney review time. The Conditional Use Permit application fee and escrow are in place to help cover these expenses.

Attachments:

Location Map

Site Plan

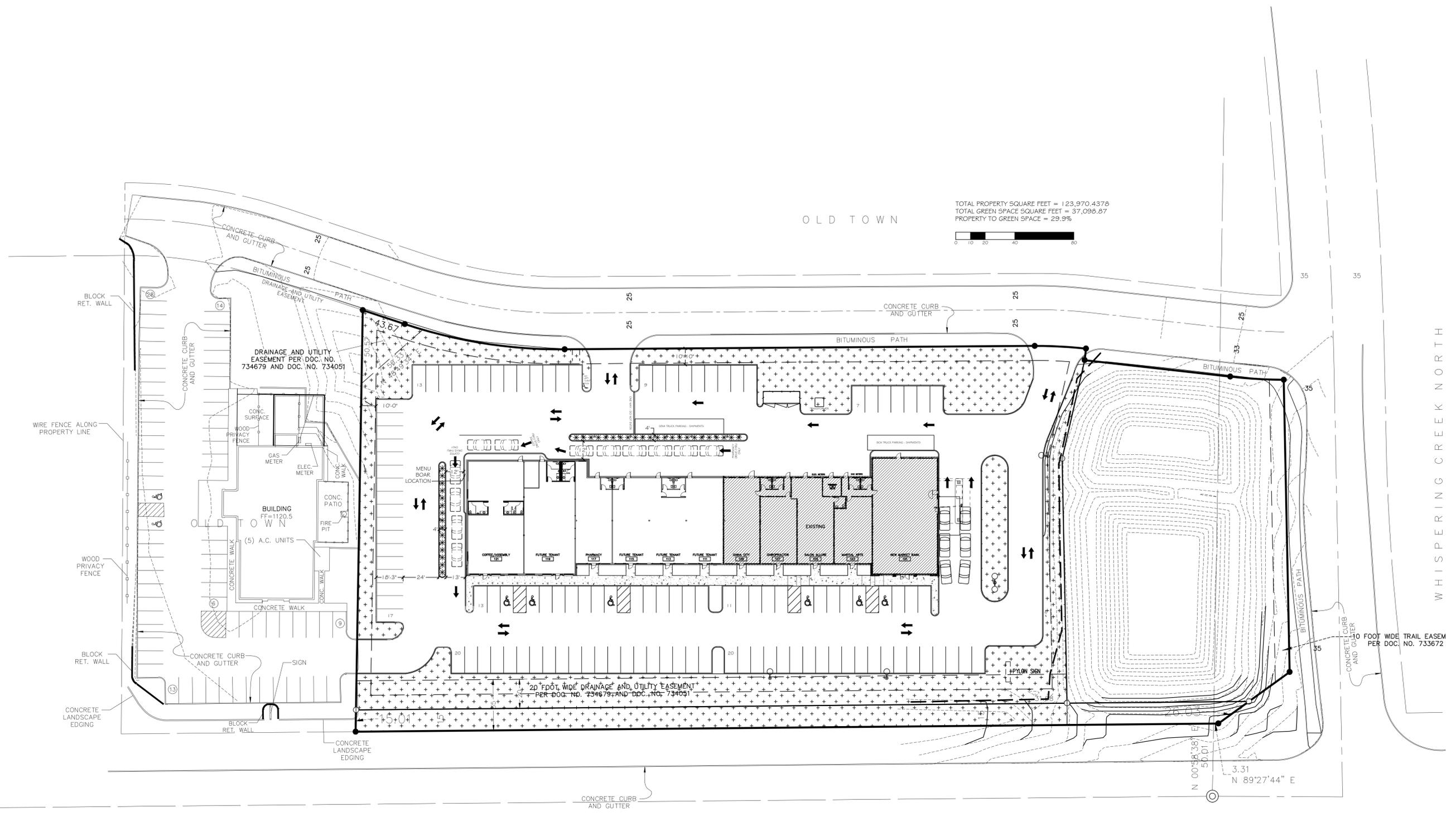
Resolution #19-48

LOCATION MAP



NOT FOR CONSTRUCTION

REVISIONS
07-03-19
07-15-19



TOTAL PROPERTY SQUARE FEET = 123,970.4378
TOTAL GREEN SPACE SQUARE FEET = 37,098.87
PROPERTY TO GREEN SPACE = 29.9%

DATE: 02-12-2019
NOT FOR CONSTRUCTION
DRAWN BY: MSB
CHKD BY: 1/32"= 1'-0" ON 24X36

ELKO NEW MARKET RETAIL
CENTER PHASE 1 & PHASE 2

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-48

**RESOLUTION OF THE ELKO NEW MARKET CITY COUNCIL
GRANTING APPROVAL OF AMENDING CONDITIONAL USE PERMIT #C1-2017
TO ALLOW AN ADDITIONAL ACCESSORY DRIVE-THROUGH LANE
ELKO NEW MARKET, MN**

WHEREAS, Conditional Use Permit #C1-2017 was approved on August 28, 2017 by the Elko New Market City Council; and,

WHEREAS, Greystone Construction Company has applied for an amendment to Conditional Use Permit #C1-2017 for the real property legally described as:

Lot 1 Block 1, New Market Bank Addition

(“Property”);

WHEREAS, the Applicants are requesting approval of an amendment to Conditional Use Permit #C1-2017 pursuant to Elko New Market City Code Section 11-26A-4 to allow an additional accessory drive-through lane on the northerly portion of the Property; and,

WHEREAS, the Elko New Market Planning Commission has completed a review of the Conditional Use Permit application with a required public hearing on July 30, 2019, preceded by the required published and mailed notices, and reviewed the staff report pertaining to the request, a copy of the report has been presented to the City Council with a recommendation for approval on a 4 to 0 vote, subject to conditions and findings contained in the meeting minutes; and,

WHEREAS, the City Planner and City Engineer have recommended approval of the Conditional Use Permit, under the conditions provided herein; and,

WHEREAS, City Council reviewed the conditional use permit application; and finds:

- 1) The proposed accessory drive-through lane is consistent with the comprehensive plan and permitted in the Residential Mixed Use land use category with an approved conditional use permit.
- 2) The drive-through lane proposed on the north end of the building has been designed to meet City Code requirements, including the amount of required vehicle stacking space.
- 3) The site has been designed to allow circulation options within the site and around the building; the proposed drive-through facility will not interfere with access into or within the site. Potential traffic conflicts will be minimized through signage and pavement markings.
- 4) The accessory drive-through facility has been designed in a manner that will prevent vehicle stacking into public streets or rights of way.
- 5) The proposed vehicle stacking lane and drive-through window have been located on the north side of the building, which does not face residentially zoned properties. The design is such that vehicles will be able to maneuver throughout the site with minimal traffic conflicts.
- 6) The site has been designed to screen the proposed drive-through facility from view of adjoining residential zoning districts and public street rights-of-way by way of landscaping within the proposed curbed island.

NOW, THEREFORE, BE IT RESOLVED that the amendment to Conditional Use Permit #C1-2017 to allow an additional accessory drive-through lane is hereby approved, subject to the following conditions:

- 1) The drive-through lane shall be constructed as shown on the plan sheet dated February 12, 2019 with revisions on July 3, 2019 and July 15, 2019.
- 2) Landscape screening shall be provided on the north side of the northerly drive-through to screen it from public street rights-of-way. Landscape screening can be placed within the raised islands.
- 3) A lighting plan meeting the requirements of Section 11-4-7 of the City Code will be required prior to building permit approval.

PASSED, ADOPTED AND APPROVED this 8th day of August, 2019.

CITY OF ELKO NEW MARKET

Joe Julius, Mayor

ATTEST:

Tom Terry, Acting City Clerk



STAFF MEMORANDUM

SUBJECT:	Condemnation Proceedings for Easements Needed for Roundabout Project
MEETING DATE:	August 8, 2019
PREPARED BY:	Renee Christianson, Community Development Specialist
REQUESTED ACTION:	Adopt Resolution 19-49 Authorizing Condemnation of Land for Public Purpose

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

In February of 2019 the City Council entered into a Professional Services Agreement with SRF Consulting Group, Inc. Under this Agreement, SRF would provide right-of-way agent services related to the proposed CSAH 2 & CSAH 91 roundabout project. Three easements are needed to accommodate construction of the roundabout and trails as currently proposed. Two easement acquisitions are fully complete. SRF has been unable to successfully obtain the easement needed on the third parcel.

The remaining (temporary construction) easement, which is needed from R & F Properties, is necessary to accommodate construction of a multi-purpose trail along the east side of CSAH 91. The temporary easement contains 14,849 square feet / .34 acres. An appraisal of the temporary construction easement was completed on March 19th, and an offer was subsequently made to the property owner. Attempts to negotiate the easement have been unsuccessful, and a final written offer was delivered to the property owner on July 12, 2019. Since the final offer was presented, the property owner has provided two counter-offers. In consultation with the City Attorney, staff considers the counter-offers unacceptable.

The City Council is aware that a significant amount of federal funding has been awarded to the County, on behalf of the City, to deliver the roundabout project. The federal award amount is \$1.9 million. To ensure that all necessary easements are in place as required, staff is recommending that the City Council begin condemnation proceedings to acquire the easement from R & F Properties through the Quick Take process which provides as follows:

- Whenever the City requires possession of property prior to the filing of an award by a court-appointed commissioner, the City must serve all landowners notice of the City's intent to possess (a "Quick-Take Notice") at least 90 days prior to the date on which possession is to be taken.
- Prior to taking possession, the City must pay to the owner or deposit with the court an amount equal to the City's approved appraisal value.
- Amounts deposited with the court are paid out by direction of the court.
- If funds are deposited with the court, the City may apply to the court for an order transferring title and possession of the property from the owner to the City.

Staff is seeking approval of the attached Resolution authorizing condemnation of the temporary construction easement from R & F Properties.

FINANCIAL IMPACT

The financial impact of the condemnation proceedings will involve staff time and City Attorney time. The full financial impact to the City is unknown at this time.

REQUESTED ACTION

The City Council is being asked to approve Resolution #19-49 Authorizing Condemnation of Land For Public Purpose.

Attachments:

Resolution 19-49 Authorizing Condemnation of Land for Public Purpose
Survey drawing depicting temporary construction easement

**CITY OF ELKO NEW MARKET
SCOTT COUNTY, MINNESOTA**

RESOLUTION NO. 19-49

**RESOLUTION AUTHORIZING CONDEMNATION
OF LAND FOR PUBLIC PURPOSES**

WHEREAS, the City Council of the City of Elko New Market does hereby determine that it is necessary and for a public use and purpose to acquire the property legally described on the attached Exhibit "A", subject to engineering modifications, if any, for purposes in connection with the CSAH 2 & CSAH 91 Roundabout Project.

WHEREAS, City staff and consultants have and will continue to work with the property owner to acquire the necessary easements and/or fee title; and

WHEREAS, the City Council finds that construction timing makes it necessary to acquire title to, and possession of, the property as soon as possible in order for the project to proceed in an efficient, cost effective and expeditious manner.

NOW, THEREFORE, be it resolved by the City Council of the City of Elko New Market, Minnesota:

1. That the City Attorney is authorized to commence eminent domain proceedings pursuant to Minnesota Statutes Chapter 117 to acquire the necessary easements and/or fee title identified on the attached Exhibit "A", subject to engineering modifications, if needed.

2. That the City Attorney is authorized to acquire the necessary property interests pursuant to the "quick take" provisions of Minnesota Statutes Section 117.042.

3. That the Mayor and the City Clerk are authorized to execute all documents necessary, in the opinion of the City Attorney, to effect the acquisition of the necessary property interests.

4. The City has obtained appraisals of the property being acquired. The Council hereby authorizes the City Administrator to approve the appraisals and staff to negotiate with the property owners relating to the acquisition of the property and to acquire the property for the appraised values.

PASSED, ADOPTED AND APPROVED this __ day of _____, 2019.

Joe Julius, Mayor

ATTEST:

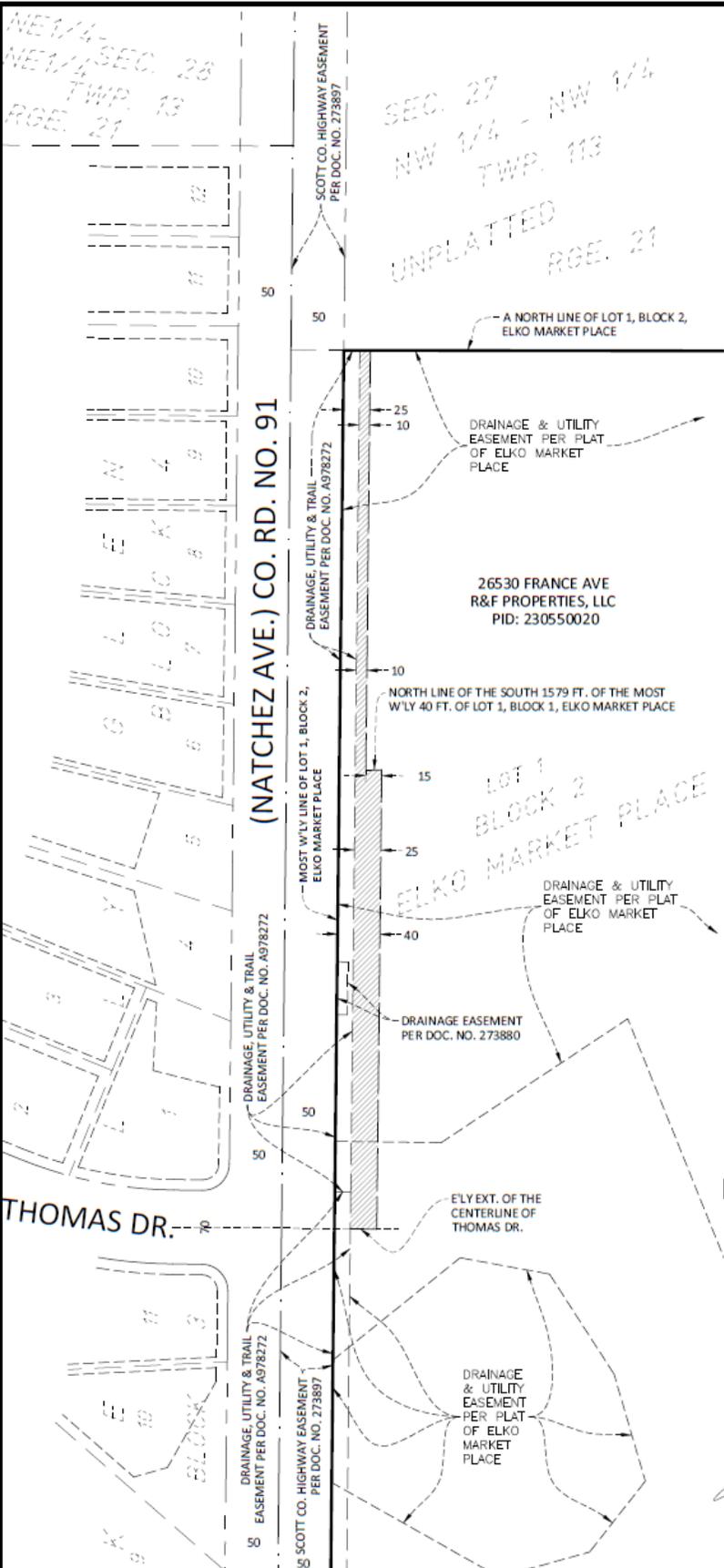
Tom Terry, City Clerk

EXHIBIT "A"

A temporary easement for construction purposes over, under and across the east 10.00 feet of the most westerly 25.00 feet, as measured at right angles, of Lot 1, Block 2, ELKO MARKET PLACE, according to the recorded plat thereof, Scott County, Minnesota, lying north of the easterly extension of the centerline of Thomas Drive, as delineated and dedicated in KELLY GLEN, according to the recorded plat thereof, said Scott County, Minnesota.

AND

Together with a temporary easement for construction purposes over, under and across the east 15.00 of the most westerly 40.00 feet, as measured at right angles, of Lot 1, Block 2, ELKO MARKET PLACE, lying north of the centerline of Thomas Drive, as delineated and dedicated in KELLY GLEN, according to the recorded plat thereof, said Scott County, Minnesota; and lying south of the north line of the south 1,579 feet of the most westerly 40.00 feet, as measured at right angles, of said Lot 1.



PROPOSED EASEMENT DESCRIPTION

A temporary easement for construction purposes over, under and across the east 10.00 feet of the most westerly 25.00 feet, as measured at right angles, of Lot 1, Block 2, ELKO MARKET PLACE, according to the recorded plat thereof, Scott County, Minnesota, lying north of the easterly extension of the centerline of Thomas Drive, as delineated and dedicated in KELLY GLEN, according to the recorded plat thereof, said Scott County, Minnesota.

AND

Together with a temporary easement for construction purposes over, under and across the east 15.00 of the most westerly 40.00 feet, as measured at right angles, of Lot 1, Block 2, ELKO MARKET PLACE, lying north of the centerline of Thomas Drive, as delineated and dedicated in KELLY GLEN, according to the recorded plat thereof, said Scott County, Minnesota; and lying south of the north line of the south 1,579 feet of the most westerly 40.00 feet, as measured at right angles, of said Lot 1.

Said temporary easements shall expire on _____.



 PROPOSED TEMPORARY CONSTRUCTION EASEMENT (AREA: 14,849 SQ. FT.)

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Eric R. Wilfahrt 2/19/2019
 Eric R. Wilfahrt Date
 License Number 48166

EASEMENT EXHIBIT
 26350 FRANCE AVE, ELKO NEW MARKET, MN 55020

 **BOLTON & MENK**
 12224 NICOLLET AVENUE
 BURNSVILLE, MINNESOTA 55337
 (952) 890-0509

PART OF:
 LOT 1, BLOCK 2
 ELKO MARKET PLACE

FOR: CITY OF ELKO NEW MARKET



STAFF MEMORANDUM

SUBJECT:	Specialty Vehicles
MEETING DATE:	August 8, 2019
PREPARED BY:	Brady Juell, Chief of Police
REQUESTED ACTION:	Provide Feedback and Direction Regarding City Ordinance Regulating ATV's, Golf Carts, UTV's and other Special Vehicles

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND

Staff is presenting a written memorandum to the City Council regarding the regulation of ATVs/Golf Carts/UTVs and other special vehicles. This memo will discuss what state statute dictates a city can regulate, the current City ordinance governing the use of these vehicles, and then finally list the type of vehicles the City Council could seek regulation on.

CURRENT STATE STATUTE REGARDING SPECIAL VEHICLE USE

In summary, MN State Statute 169.045 states that if a city **does not** specifically permit the use of special vehicles (golf carts, UTVs, ATVs, and mini trucks) they may **not** operate on city streets.

CURRENT ORDINANCE:

Elko New Market Ordinance 7-3 regulates the use of Snowmobiles and ATV's inside the city limits. Highlights of the ordinance are as follows:

- Defines what ATV's/Snowmobiles are.
- Prohibits the use on public land, other than for the purpose of *"Going to or returning from a non-highway area of permissible operation, by the most direct route."*
- Prohibits operation: on sidewalks, in parks, when driving at an unreasonable speed for conditions, in a careless manner, in a noisy manner that creates a public nuisance, on private property without permission, without lights when required, under the influence of intoxicants, and within 100 feet of pedestrians or others when it would cause a dangerous situation.
- Sets a minimum age limit for operation at age 14 with possession of a safety certificate or 14-18 years old with a Safety Certificate or Driver's license with a snowmobile endorsement.
- Mandates the vehicle pull over for police when signaled, follow all other state laws and regulations, and makes a violation of the City ordinance a Misdemeanor crime.

WHAT CITIES CAN REGULATE WITH ORDINANCES

As mentioned above, cities may adopt local ordinances permitting the operation of certain special vehicles. This is a local decision, so if a city does not specifically permit the use of these vehicles by adoption of a local ordinance, they may **NOT** operate on city streets. State law includes some vehicle-specific requirements that must be in each city ordinance, should a city choose to adopt local controls. Specifically, the local ordinance must (among others):

- Require all golf carts to display a slow-moving vehicle emblem.
- Limit the operation of golf carts, UTVs, and ATVs on designated roadways to between sunrise and sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights.
- Prohibit the operation of golf carts, UTVs, and ATVs in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions.
- Require all special vehicles to have rear-view mirrors.
- State law requires proof of insurance—on all four types of special vehicles—City ordinances must require evidence of insurance complying with state law. Therefore, a person must present proof of insurance on the golf cart, UTV, ATV, or mini-truck before the city issues them a permit. That insurance must comply with insurance for at least a motorcycle.

- Regulate only what the state law allows a city to regulate.
- Provide the same procedural protections as the state law when prosecuting offenses covered by an ordinance.
- Not prohibit what state law allows.

WHAT NEARBY CITIES HAVE FOR ORDINANCES

City staff has conducted research of surrounding city's ordinances pertaining to specialty vehicles. Surrounding cities regulate specialty vehicles differently, but many, like Elko New Market, allow some level of use in their cities. The level of operation in area cities are as follows:

- **Belle Plaine:** Allows use of UTVs for general transportation purposes (no ATVs). Allows use of golf carts for persons with a disability. Permit required.
- **Farmington:** Does not allow use of special vehicles within city limits.
- **Jordan:** Allows use of UTVs for general transportation purposes (no ATVs). Allows use of special vehicles for persons with a disability. Permit required.
- **Lakeville:** Allows for the use of golf carts on bike paths, designated streets and bike lanes from sunrise to sunset, only for persons who are physically disabled. Permit required. Other special vehicles are not allowed unless licensed as a motor vehicle.
- **Lonsdale:** Allows the use of ATVs, Golf Carts, and UTVs for general transportation purposes. Permit required.
- **New Prague:** Allows the use of ATVs, Golf Carts, and UTVs for general transportation purposes with a valid driver's license. Permit required.
- **Prior Lake:** Allows use of golf carts for general transportation purposes with a permit. Other special vehicles are not allowed unless licensed as a motor vehicle.
- **Savage:** Does not allow use of special vehicles for general transportation purposes unless licensed as a motor vehicle.
- **Shakopee:** Allows use of golf carts for general transportation purposes with a permit. Other special vehicles are not allowed unless licensed as a motor vehicle.

SPECIAL VEHICLE DEFINITIONS

The Minnesota DNR has the following definitions for special vehicles that can be regulated by local ordinances:

- **ATV:** A motorized vehicle with: not less than three, but not more than six low pressure or non-pneumatic tires; a total dry weight of 2,000 pounds or less; and a total width from outside of tire rim to outside of tire rim that is 65 inches or less. All-terrain vehicle includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.
 - **Class 1 ATV:** An all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is 50 inches or less.
 - **Class 2 ATV:** Means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is greater than 50 inches but not more than 65 inches.

- Golf Cart: a small motorized vehicle for golfers and their equipment. Not specifically defined in statute other than “motorized golf cart.”
- UTV: A side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800 but less than 2,600 pounds.
- Mini Truck: A motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds.
- Off Road Motorcycle: Off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered under chapter 168 for highway use if it is also used for off-highway operation on trails or unimproved terrain.

CONCLUSION

Current City ordinance only allows the use of ATVs and Snowmobiles for the purpose of “*Going to or returning from a non-highway area of permissible operation, by the most direct route.*” City Staff has been directed by the City Council to look into the process for possibly permitting special vehicle use on city streets for general transportation purposes. Given the above listed information, Staff is looking for direction on whether or not the City Council would like to amend the current City ordinance. Staff would need direction or guidance for the following topics:

- Should the ordinance be amended to allow the use of special vehicles for general transportation purposes?
- What specific special vehicles should be allowed under a new ordinance?
- Where should special vehicles be allowed to operate in the city?
- What time during the day should special vehicles be allowed to operate?
- What minimum age should be allowed to operate a permitted vehicle in the city?
- What should the permit process entail and how much should it cost?
- If permitted, what duration of time should the permit be for?

For more information regarding special vehicles see the League of Minnesota Cities informational memo on Special Vehicles Operating on City Streets attached to this memorandum or provided at the following link:

https://www.lmc.org/media/document/1/special_vehicles.pdf?inline=true.

Attachments:

- MS 169.045
- Elko New Market City Code Title 7-3
- League of Minnesota Cities Information Memo – Special Vehicles Operating on City Streets

169.045 SPECIAL VEHICLE USE ON ROADWAY.

Subdivision 1. **Designation of roadway, permit.** The governing body of any county, home rule charter or statutory city, or town may by ordinance authorize the operation of motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck is by permit only. For purposes of this section:

- (1) an all-terrain vehicle has the meaning given in section 84.92;
- (2) a mini truck has the meaning given in section 169.011, subdivision 40a; and

(3) a utility task vehicle means a side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800 but less than 2,600 pounds.

Subd. 2. **Ordinance.** The ordinance shall designate the roadways, prescribe the form of the application for the permit, require evidence of insurance complying with the provisions of section 65B.48, subdivision 5 and may prescribe conditions, not inconsistent with the provisions of this section, under which a permit may be granted. Permits may be granted for a period not to exceed three years, and may be renewed. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck on the designated roadways. The ordinance may require, as a condition to obtaining a permit, that the applicant submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck on the roadways designated.

Subd. 3. **Times of operation.** Motorized golf carts, all-terrain vehicles, and utility task vehicles may only be operated on designated roadways from sunrise to sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights. They shall not be operated in inclement weather, except during emergency conditions as provided in the ordinance, or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient visibility to clearly see persons and vehicles on the roadway at a distance of 500 feet.

Subd. 4. **Slow-moving vehicle emblem.** Motorized golf carts shall display the slow-moving vehicle emblem provided for in section 169.522, when operated on designated roadways.

Subd. 5. **Crossing intersecting highways.** The operator, under permit, of a motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck may cross any street or highway intersecting a designated roadway.

Subd. 6. **Application of traffic laws.** Every person operating a motorized golf cart, all-terrain vehicle, utility task vehicle, or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of this chapter, except when those provisions cannot reasonably be applied to motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks and except as otherwise specifically provided in subdivision 7.

Subd. 7. **Nonapplication of certain laws.** The provisions of chapter 171 are applicable to persons operating mini trucks, but are not applicable to persons operating motorized golf carts, utility task vehicles, or all-terrain vehicles under permit on designated roadways pursuant to this section. Except for the requirements of section 169.70, the provisions of this chapter relating to equipment on vehicles are not applicable to motorized golf carts, utility task vehicles, or all-terrain vehicles operating, under permit, on designated roadways.

Subd. 7a. **Required equipment on mini trucks.** Notwithstanding sections 169.48 to 169.68, or any other law, a mini truck may be operated under permit on designated roadways if it is equipped with:

- (1) at least two headlamps;
- (2) at least two taillamps;
- (3) front and rear turn-signal lamps;
- (4) an exterior mirror mounted on the driver's side of the vehicle and either (i) an exterior mirror mounted on the passenger's side of the vehicle or (ii) an interior mirror;
- (5) a windshield;
- (6) a seat belt for the driver and front passenger; and
- (7) a parking brake.

Subd. 8. **Insurance.** In the event persons operating a motorized golf cart, utility task vehicle, all-terrain vehicle, or mini truck under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile Insurance Plan under sections 65B.01 to 65B.12, at a rate to be determined by the commissioner of commerce.

History: 1982 c 549 s 2; 1986 c 452 s 19; 1Sp1986 c 3 art 2 s 12; 1987 c 337 s 121,122; 1997 c 159 art 2 s 18; 2009 c 158 s 3,10; 2011 c 107 s 89-95; 2012 c 287 art 3 s 56; 2014 c 255 s 20

Chapter 3

SNOWMOBILES AND ALL-TERRAIN VEHICLES

7-3-1: PURPOSE:

The purpose of this chapter is to provide reasonable regulations for the use of snowmobiles and all-terrain motor vehicles on public and private property in the city. This chapter is intended to protect life and property and to prevent public nuisances. (2011 Code)

7-3-2: APPLICATION AND SCOPE:

A. **Conflicts With State Law:** If any provision in this chapter contradicts the regulations pertaining to snowmobiles set forth in Minnesota statutes chapter 168 (motor vehicle registration), chapter 169 (traffic regulations), chapter 169A (driving while impaired), chapter 171 (driver license regulations) or chapter 84 (snowmobile and all-terrain vehicle registrations), the state regulations shall control.

B. **Scope:** This chapter shall apply to the control of traffic and the regulation of that certain class of vehicles falling within the definition of snowmobiles or ATVs as to matters set forth herein. All provisions of other ordinances not relating to matters herein stated apply as equally to snowmobiles or ATVs as to other vehicles. Nothing contained in this chapter shall be construed to change state law, and said laws shall remain in full force and effect. (2011 Code)

7-3-3: DEFINITIONS:

For the purpose of this chapter, the terms defined in this section shall have the meanings stated:

ALL-TERRAIN VEHICLE OR ATV: Refers to self-propelled trail bikes, minibikes, dirt bikes, mopeds, three-wheelers, four-wheelers, and amphibious vehicles, other than snowmobiles, used at least partially for travel on natural terrain.

COMMISSIONER: The state commissioner of natural resources acting directly or through the commissioner's authorized agent.

NATURAL TERRAIN: Areas other than roadways or driveways (private or public), parking lots and other areas of which the surface has been intentionally modified for motor vehicle operation thereon.

OPERATE: To ride in or on and control the operation of a snowmobile or ATV.

OPERATOR: Every person who operates or is in actual physical control of a snowmobile or ATV.

OWNER: A person, other than a lienholder, having the property in or title to a snowmobile or ATV and entitled to the use or possession thereof.

PERSON: Includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

REGISTER: The act of assigning a registration number to a snowmobile or ATV.

ROADWAY: That portion of a highway improved, designed, or ordinarily used for vehicular travel.

SNOWMOBILE: A self-propelled vehicle designed for travel on snow or ice or on natural terrain steered by wheels, skis or runners and licensed in compliance with state statutes.

STREET OR HIGHWAY: The entire width between boundary lines or any way or place when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic. (2011 Code)

7-3-4: OPERATION REGULATIONS:

A. **Prohibited Hours; Exceptions:** No person shall operate a snowmobile or ATV upon any public property, street, alley, lot, lake or stream within the city between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. of the following day; provided, however, that if the snowmobile or ATV is being driven for the purpose of going in the most direct, practicable route possible from a point outside the city limits to the residence of the operator within the city limits, or from the residence of the operator inside the city limits in the most direct, practicable route to a specific destination outside the city limits, then, and for that purpose only, operation of a snowmobile or ATV between the aforesaid hours shall be lawful.

B. **Operation On Banks Of Highways:** Snowmobiles or ATVs may be operated upon the ditch bottom or outside bank of trunk, county state aid and county highways where such highways are configured within the corporate limits.

C. **Driving On Roadways:** It is unlawful to drive a snowmobile or ATV on the portion of any right of way of any public highway, street, road, trail or alley used for motor vehicle travel; except, that a snowmobile or ATV may operate upon the most right hand lane of a municipal street or alley and may, in passing or making a left hand turn, operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a nonhighway area of permissible operation, by the most direct route.

D. **Prohibited Operation:**

1. **On Sidewalks:** No snowmobile or ATV shall be operated at any time whatsoever upon any sidewalk within the corporate limits of the city.

2. In Parks: It shall be unlawful to operate a snowmobile or ATV in any city park.
3. Hurting Or Chasing Animals: It is unlawful to intentionally drive, chase, run over or kill any animal with a snowmobile or ATV.
4. Established Public Places: In addition to the regulations provided in this subsection, it is unlawful to operate a snowmobile or ATV on any public place where prohibited by order of the city council. The city council shall have the power, by resolution, to prohibit the operation whenever, in its discretion, the same would be likely to produce damage to property or endanger the safety or repose of other persons. The areas shall be appropriately signposted following the enactment of the city resolution, and the prohibition shall become effective upon the posting.

E. Direct Crossing:

1. A snowmobile or ATV may make a direct crossing of a street or highway, except an interstate highway or freeway, provided:
 - a. The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;
 - b. The snowmobile or ATV is brought to a complete stop before crossing the shoulder or main traveled way;
 - c. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and
 - d. In crossing a divided street or highway, the crossing is made only at an intersection of the street or highway with another public street or highway.
2. If the crossing is made between the hours of one-half ($1/2$) hour after sunset to one-half ($1/2$) hour before sunrise or in conditions of reduced visibility, the crossing may be made only if both front and rear lights are on.
3. ATVs not licensed as motor vehicles are forbidden to cross highways or streets except when they are pushed across by human power. ATVs, when pushed across highways or streets, shall be subject to all of the regulations of this chapter.

F. Driving Near People And Certain Areas: It is unlawful to operate a snowmobile or ATV within one hundred feet (100') of any pedestrian, fisherman, skating rink or sliding area where the operation would conflict with the use or endanger other persons or property.

G. Compliance With State Law: No snowmobile or ATV shall be operated within the city in violation of the requirements under Minnesota statutes section 84.87, subdivision 1.

H. Unsafe Operation: It shall be unlawful for any person to drive or operate any snowmobile or ATV in the following unsafe or harassing ways:

1. Speed: At a rate of speed greater than reasonable or proper under all surrounding circumstances.
2. Carelessness, Negligence: In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
3. Noisy Conditions: In such a manner so as to create loud, unnecessary and excessive noise or in any way which shall unduly disturb the peace and quiet of other persons in the city or in any manner which creates a public nuisance thereby.
4. Lights: Without a lighted headlight and taillight when required for safety.
5. Tree Nurseries: In any tree nursery or planting in a manner which damages or destroys growing stock.
6. Private Property: On private property of another without specific permission of the owner or person in control of said property.
7. Under Influence Of Intoxicants: At any place while under the influence of "alcohol" or a "controlled substance", as those terms are defined in Minnesota statutes. Minnesota statutes section 169A.20, "driving while impaired", is incorporated herein by reference. (2011 Code)

7-3-5: EQUIPMENT REQUIREMENTS:

It is unlawful for any person to operate a snowmobile or ATV to any place within the city unless it is equipped with the following:

- A. Mufflers: Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation (no person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile or ATV motor);
- B. Brakes: Brakes adequate to control movement of and to stop and hold the snowmobile or ATV under any condition of operation;
- C. Safety Throttle: A safety or so called "dead man" throttle in operating condition;
- D. Lights: When operated between the hours of one-half ($1/2$) hour after sunset to one-half ($1/2$) hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet (100') ahead during the hours of darkness and under normal atmospheric conditions; and the headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile or ATV operator. It shall also be equipped with at least one red taillamp having a minimum power of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred feet (500') to the rear during the hours of darkness under normal atmospheric conditions; and

- E. Reflective Material: Reflective material at least sixteen (16) square inches on each side, forward of the handlebars or steering device of a snowmobile or ATV and at the highest practicable point of any towed object, as to reflect light at a ninety degree (90°) angle. (2011 Code)

7-3-6: AGE OF OPERATOR:

- A. It is unlawful for any person under the age of fourteen (14) years to operate a snowmobile or ATV on streets and city parks or other public land or on the roadway surface of highways or to make the crossing of a trunk, county state aid or county highway as the operator of a snowmobile or ATV.
- B. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile or ATV, as permitted under this chapter, only if he or she has, in his or her possession, a safety certificate issued by the commissioner of natural resources, driver's license that has a valid snowmobile qualification indicator, or an identification card that has a valid snowmobile qualification.
- C. It is unlawful for the owner of a snowmobile or ATV to permit the snowmobile or ATV to be operated contrary to the provisions of this section. (2011 Code)

7-3-7: EMERGENCIES:

Notwithstanding the prohibition of operating a snowmobile or ATV upon a roadway to the contrary, a snowmobile or ATV may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical. (2011 Code)

7-3-8: OBEDIENCE TO POLICE:

It is unlawful for a snowmobile or ATV operator, having received a visual or audible signal from any law enforcement officer to come to a stop, to operate a snowmobile or ATV in wilful or wanton disregard of the signal, to interfere with or endanger the law enforcement officer or any other person or vehicle or to increase his or her speed or attempt to flee or elude the officer. (2011 Code)

7-3-9: LOCKED VEHICLES REQUIRED:

It is unlawful for any person to leave a snowmobile or ATV on a public place unless he or she shall lock the ignition, remove the key and take the same with him or her. (2011 Code)

7-3-10: COMPLIANCE WITH OTHER LAWS; STATE REGULATIONS ADOPTED:

City ordinances relating to vehicular traffic shall apply to the operation of snowmobiles and ATVs upon streets and highways within the city; and Minnesota statutes sections 84.81 through 84.91, Minnesota statutes chapters 169 and 169A, and applicable rules and regulations promulgated thereunder by the state departments of natural resources and public safety are hereby adopted by reference except those provisions which by their nature have no application. (2011 Code)

7-3-11: MISDEMEANOR VIOLATION:

Anyone who violates any provision of this chapter is guilty of misdemeanor and subject to punishment as provided by law. (2011 Code)



INFORMATION MEMO

Special Vehicles Operating on City Streets

Vehicles showing up on or along city streets and sidewalks include all-terrain vehicles (ATVs), golf carts, motorcycles, autocycles, pedicabs, rickshaws, mini-trucks, motorized foot scooters, pocket bikes, mini-motorcycles, motorized bicycles, and electric-assisted bicycles. Learn what traffic and vehicle regulations state and federal laws impose, and additional possible regulations cities can enact through local ordinances. Links to model ordinances regulating recreational and special vehicles.

RELEVANT LINKS:

[Minn. Stat. ch. 169.](#)
[Minn. Stat. § 169.04.](#)
See Appendix A, Definitions.

See Appendix B, State and federal regulations.

[Minn. Stat. § 84.787, subd. 7.](#)
[Minn. Stat. § 84.788, subd. 12.](#)
[Minn. Stat. § 168.002, subd. 18 \(f\).](#)
[Minn. Stat. § 84.788, subd. 12 \(d\).](#)
[Minn. Stat. §§ 84.787-84.795.](#)

Dept. of Public Safety: [Off-Highway Motorcycle Dual Registration FAQs 2015.](#)
Dept. of Public Safety: [Certificate Checklist -Off Highway Motorcycle.](#)

I. Laws controlling particular vehicles

Most traffic and vehicle regulations are provided in state and federal law. This memo focuses only on particular vehicles, applicable federal and state laws, and possible additional local regulations.

II. State law definitions and regulations

A. State law: definitions

The Department of Natural Resources (DNR) regulates the operation of many types of vehicles, some defined and some not. The six main vehicle categories, and those that are defined, include off-highway motorcycles (OHMs), off-highway vehicles (OHVs), off-road vehicles (ORVs), snowmobiles, recreational motor vehicles and all-terrain vehicles (ATVs). Some vehicles fit multiple categories. For example, an ATV may be an off-highway vehicle and a recreational motor vehicle depending on where and how it is being operated. State DNR law defines these vehicles as follows.

- **Off-highway motorcycle (OHM):** A motorized, off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered for highway use if it is also used for off-highway operation on trails or unimproved terrain. An OHM, commonly known as a dirt bike, may obtain dual registration for use off road or on public ways, if it is modified to meet federal and state traffic regulations such as emission, noise and lighting standards. If so modified, and OHM meets the definition of a motor vehicle. Off-highway motorcycle does not include a golf cart; mini truck; dune buggy; go-cart; moped; pocket bike; gray market vehicle; or vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[Minn. Stat. §§ 84.773-.781.](#)

[Minn. Stat. § 84.797, subd. 7.](#)
[Minn. Stat. §§ 84.771-84.781.](#)

[Minn. Stat. §§ 84.81-.89.](#)
[Minn. Stat. § 84.81, subd. 3.](#)

[Minn. Stat. § 84.92, subd. 8-10.](#)

[Minn. Stat. § 84.90.](#)

[Minn. Stat. § 84.90.](#)

- **Off-highway vehicles (OHVs):** defined as an off-highway motorcycle, an off-road vehicle, or an all-terrain vehicle, may operate only in certain public areas and on designated OHV trails.
- **Off-road vehicles (ORVs):** A motor-driven recreational vehicle capable of cross-country travel on natural terrain without benefit of a road or trail. Many vehicles are specifically exempted from the definition of an off-road vehicles, including but not limited to snowmobiles, all-terrain vehicles, motorcycles, watercraft, farm vehicles being used for farming; vehicles used for military, fire, emergency, or law enforcement purposes; a construction or logging vehicle used in the performance of its common function; a motor vehicle owned by or operated under contract with a utility, whether publicly or privately owned, when used for work on utilities; a commercial vehicle being used for its intended purpose; snow-grooming equipment when used for its intended purpose; or an aircraft.
- **Snowmobiles:** a self-propelled vehicle designed for travel on snow or ice and steered by skis or runners. State law classifies snowmobiles as recreational vehicles.
- **All-terrain vehicles (ATVs):** A motorized vehicle with: not less than three, but not more than six low pressure or non-pneumatic tires; a total dry weight of 2,000 pounds or less; and a total width from outside of tire rim to outside of tire rim that is 65 inches or less. All-terrain vehicle includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.
All-terrain vehicle, Class 1: An all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is 50 inches or less.
All-terrain vehicle, Class 2: An all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is greater than 50 inches but not more than 65 inches.
- **Recreational motor vehicles:** As used in DNR law, this catch all term means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to snowmobiles, trail bikes, ATVs, hovercraft, and other motor vehicles licensed for highway operation which is being used for off-road recreational purposes.

B. State law: operating regulations

1. Recreational motor vehicles

State law regulating where “recreational motor vehicles” may operate is specific:

RELEVANT LINKS:

[Minn. Stat. § 473.121, subd. 2.](#)

[Minn. Stat. § 84.90, subd. 6.](#)

[Minn. R. 6102.0050.](#)

For DNR Water Surface sample ordinance, checklist, worksheet, and joint powers agreement, contact: Minnesota Department of Natural Resources:

Lieutenant Adam Block,
State Boating Law
Administrator:
adam.block@state.mn.us or
(651) 259-5057.

[Minn. Stat. §§ 84.773-.781.](#)
[Minn. Stat. § 84.773.](#)
Minnesota Department of Natural Resources: [2018-2019 Off-Highway Vehicle Regulations.](#)
[Minn. Stat. § 84.92, subds. 9-10.](#)
[OHV Regulations in the Agricultural Zone.](#)
[Minn. Stat. § 84.797 subds. 1, 7.](#)

See section II-B-7, ATVs.

[Minn. Stat. § 84.795, subd. 4.](#)

- Within the seven-county metropolitan area, a person must have written or oral permission to operate a recreational motor vehicle on someone else's property.
- Outside the metropolitan area, a person must not operate a recreational motor vehicle after the owner provides notice not to do so, either orally or by a written or posted notice.

This law specifically allows cities to impose additional restrictions or prohibitions on operation of recreational motor vehicles on property not owned by the operator.

2. Recreational vehicles on public waters

The DNR governs the operation of such vehicles on public waters. In this context, a recreational vehicle is defined as an:

- ATV.
- Off-highway motorcycle.
- Off-road vehicle.

Subject to DNR approval, a city may, by ordinance, regulate the operation and the period of time within which recreational vehicles may operate on frozen public waters in their boundaries. According to the DNR, the best way to do this is to contact them and use their documents as needed.

3. Off-highway vehicles

State regulations of OHVs apply outside of city boundaries. A person may not operate an OHV on a trail or public land that is designated or signed for non-motorized use only; on restricted areas within public lands that are posted or where gates or other clearly visible structures are placed to prevent unauthorized motorized vehicle access; in public waters, except as specifically authorized by DNR law or rule; in a state park, scientific and natural area, or wildlife management area; in a DNR identified calcareous fen (rare and distinctive wetlands) or other wetlands.

Cities do not generally regulate OHVs because, by definition, they operate off-road. If an OHV, such as a motorcycle or a trail bike operates on public roads, it is subject to state law governing motorcycles. City regulation of ATVs (which may be defined as an 'off-highway vehicle') is discussed subsequently.

4. Off-highway motorcycles

A person may not drive or operate an off-highway motorcycle at speeds that are not reasonable under the conditions; in a careless, reckless, or negligent

RELEVANT LINKS:

[Minn. Stats. §§ 84.787 - 84.795. Minn. R. ch. 6102.](#)

[Minn. Stat. § 84.804, subd. 3.](#)
[DNR: Off-Road Vehicle \(ORV\) Safety.](#)

[Minn. Stat. § 84.804, subd. 6.](#)

[Minn. Stat. §§ 84.797-804.](#)

manner so as to endanger or to cause injury or damage to a person or property; in a tree nursery or planting in a manner that damages or destroys growing stock; without a hand or foot brake; at a speed exceeding ten miles per hour on the frozen surface of public waters within 100 feet of a person fishing or a fishing shelter; in a manner that violates operation rules; anywhere in this state or on the ice of any boundary water of this state while under the influence of alcohol or a controlled substance, or on an airport.

A county, city, or town, may regulate the operation of off-highway motorcycles on public lands, waters, and property under its jurisdiction other than public road rights-of-way within its boundaries, by resolution or ordinance and by giving appropriate notice, provided that the ordinance fits the following criteria:

- It must be consistent with state law and rules.
- It may not impose a fee for the use of public land or water under the jurisdiction of either the DNR or another state agency, or for the use of an access to it owned by the state, a county, or a city.
- It may not require an off-highway motorcycle operator to possess a motor vehicle driver's license while operating an off-highway motorcycle.

5. Off-road vehicles

According to state DNR law, a person may not drive or operate a vehicle off-road: at a rate of speed greater than is reasonable under the circumstances; in a careless, reckless, or negligent manner which may endanger or cause injury or damage to the person or property of another; without a functioning stoplight if so equipped; in a tree nursery or planting in a manner that damages or destroys growing stock; without a hand or foot brake or in a manner that violates rules; or on an airport.

Cities may, by ordinance, regulate the operation of off-road vehicles on public lands, waters, and property in city boundaries, other than public road rights-of-way within its boundaries, and by giving appropriate notice. The ordinance must meet the following criteria:

- It must be consistent with state law.
- It likely requires a public hearing or some notice before adoption.
- It may not impose a fee for the use of public land or water under the jurisdiction of the DNR or another agency of the state, or for the use of an access to the public land or water owned by the state, a county, or a city.

RELEVANT LINKS:

[Minn. Stat. § 84.82.](#)
[Minn. R. 6100.5000.](#)
[Minn. Stat. § 84.872.](#)
[Minn. R. 6100.5200.](#)
Minnesota Department of
Natural Resources: [2018-
2019 Snowmobile
Regulations.](#)

[Minn. Stat. § 84.85.](#)
[Minn. Stat. § 84.87.](#)

[Minn. R. 6100.5200, subp. 2.](#)
[Minn. Stat. § 84.795.](#)
[Minn. R. ch. 7460.](#)

[Minn. Stat. 84.928, subd. 1
\(h\).](#)
DNR: [Off-highway Vehicle
Regulations, 2018-19.](#)

[Minn. Stat. § 84.928, subd.
1\(d\).](#)

[Minn. Stat. § 84.928, subd.
1\(d\).](#)

[Minn. Stat. § 169.045.](#)

6. Snowmobiles

There are extensive regulations in state law and rule that apply to operating a snowmobile, which are beyond the scope of this memo. In summary, however, most snowmobiles must be registered with the state, and young people under the age of 18 must comply with specific restrictions. Cities may also regulate the operation of snowmobiles in city limits.

Cities may, by ordinance, allow two-way operation of snowmobiles on either side of the right-of-way of a street or highway under city jurisdiction, where the city, as road authority, determines that two-way operation will not endanger users of the street or highway or riders of the snowmobiles using the trail. Many cities use one ordinance to regulate operation of ATVs, snowmobiles, or other recreational vehicles using the same map for all such vehicles, discussed subsequently.

City ordinances must comply with state law. Any penalties in a local ordinance for a particular offense must match the penalty in state law for that same offense. Cities must not charge fees to snowmobile operators and must not require that operators possess a driver's license while operating the snowmobile. Cities are not authorized to license snowmobiles.

7. ATVs

State law covers operation of ATVs on public (non-city) lands extensively. Basically, Minnesota law prohibits the riding of Class 1 ATVs in ditches (or rights-of-way) south of the agriculture line, roughly from Moorhead to Taylors Falls along Highway 10 and Highway 95, between April 1 and Aug. 1. This does not apply to ATVs licensed and used for agricultural purposes.

According to the DNR, Class 2 ATVs may not be operated on the shoulder of a state trunk highway.

Note that utility task vehicles (UTVs) fit the definition of a Class 1 or Class 2 ATV based on the width of the tire rim. Due to larger sized tires, most UTVs fit the definition of a Class 2 ATV when used for recreational purposes.

Cities have choices with respect to regulating Class 1 and 2 ATVs, including:

- Declining to regulate ATVs in the city and, by doing so, allowing state law regulating operation of ATVs to apply to any county or state road right-of-way in city boundaries.
- After a public hearing, prohibit operation of ATVs altogether in city boundaries.
- Allowing operation of ATVs on city streets by permit in the same way golf carts and mini-trucks are regulated and discussed below.

RELEVANT LINKS:

[Minn. Stat. § 84.928, subd. 6 \(b\).](#)

[Minn. Stat. § 84.92 – 84.928.](#)

See section III-A-2, ATVs.

[Minn. Stat. § 84.928, subd. 1\(d\).](#)

[Regulating Recreational Vehicles, LMC Model Ordinance.](#)

[Minn. Stat. § 169.045.](#)

[Regulating Special Vehicles, LMC Model Ordinance.](#)

a. Regulation by resolution or ordinance

If a city council chooses to regulate ATVs under state law pertaining to the Department of Natural Resources, it must pass a resolution or an ordinance consistent with state law and rule.

- The city council must likely first hold a public hearing.
- An ordinance may not impose a fee for the use of public land or water under the jurisdiction of either the Department of Natural Resources or other agency of the state, or for access to land owned by the state county or city.
- An ordinance may not require an all-terrain vehicle operator to possess a motor vehicle driver's license while operating an all-terrain vehicle.

In theory, councils may pass ordinances allowing both ATV operation on city streets by permit—and ATV operation in the right-of-way.

b. Simultaneous city regulation of ATVs and snowmobiles

Some cities pass an ordinance combining the use of ATVs and snowmobiles along the same city street right-of-ways. Many cities use a map of the city to designate specific streets in the city where either ATVs or snowmobiles or both may operate in the right-of-way. This may include the larger Class 2 ATVs.

III. City regulation

A. Regulating golf carts, UTVs, ATVs, and mini-trucks (special vehicles)

Cities may adopt an ordinance permitting the operation of golf carts, smaller ATVs, utility task vehicles, and mini-trucks on city streets. This is a local decision, so if a city does not specifically permit the use of these special vehicles, they may not operate on city streets. Note that city regulation of special vehicles does not apply to their use on private property. If vehicles operating on private property cause other problems, such as excessive noise, it may become a nuisance issue, but the operation of the vehicles on private property is not otherwise subject to city regulation. Descriptions of the special vehicles cities may regulate by permit are as follows.

RELEVANT LINKS:

Minn. Stat. § 169.045, subd. 1.



Minn. Stat. § 169.045, subd. 1.



Minn. Stat. § 169.045, subd. 1 (3).



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Minn. Stat. § 169.011, subd. 40a.
Minn. Stat. § 169.045.



1. Golf carts

The term “motorized golf carts” is not further defined in state law.

Regardless, operation of a motorized golf cart on city streets may only be done with a city-issued permit. There are many types of golf carts, including electric and gas powered, but all generally have a small wheel base and are not completely enclosed.

2. ATVs

For permitting purposes, an “all-terrain vehicle” means a motorized vehicle with not less than three, but not more than six low pressure or non-pneumatic tires; a total dry weight of 2,000 pounds or less; and a total width from outside of tire rim to outside of tire rim that is 65 inches or less. It includes a class 1 and class 2 ATVs.

3. Utility task vehicles

State law was amended in 2011 to allow cities to issue permits to operate utility task vehicles on city streets. As with the other special vehicles—motorized golf carts, all-terrain vehicles, or mini-trucks—operation of a utility task vehicle on city streets is authorized only by a city-issued permit. A UTV is a side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800 but less than 2,600 pounds. UTVs differ from ATVs; they are heavier, have side-by-side front seats, and some sort of roof structure.

4. Mini-trucks

A “mini-truck” is a motor vehicle that:

- Has four wheels.
- Is propelled by an electric motor or an internal combustion engine with an enclosed cabin and a seat for the vehicle operator.
- Commonly resembles a pickup truck or van, including having a cargo area or bed located at the rear of the vehicle.

RELEVANT LINKS:

[Minn. Stat. § 169.045.](#)
[Minn. Stat. § 169.022.](#)

Beckius v. City of Canby, No. A07-1497 (Minn. Ct. App. July 1, 2008) (unpublished decision).

[Minn. Stat. § 169.045.](#)
[Minn. Stat. § 169.345, subd. 2\(f\).](#)

[Minn. Stat. § 169.045, subd. 4](#) citing [Minn. Stat. § 169.522.](#)

- Was not originally manufactured to meet federal motor vehicle safety standards, but must have head lamps; an exterior mirror mounted on the driver's side of the vehicle; either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror; a windshield; a seat belt for the driver and front passenger; and a parking brake.

B. City permitting ordinance

City regulation of these special vehicles requires a permitting scheme. Cities may issue permits as spelled out in a local ordinance so residents may operate mini-trucks, golf carts, UTVs, or ATVs on designated roadways under city jurisdiction. Such ordinances must:

- Regulate only what the state law allows a city to regulate.
- Be merely additional and complementary to a state law by covering specifically what the statute covers generally.
- Provide the same procedural protections as the state law when prosecuting offenses covered by an ordinance.
- Not prohibit what state law allows.

One case provides some guidance concerning a local ordinance regulating golf carts. This is an unpublished case, which means it does not set precedent or carry much weight legally, but it may be instructive in general terms. The case found that uniformity is the goal of the state law on permitting special vehicles. So if cities allow special vehicles on city streets, the regulations should generally be consistent from city to city. The Minnesota Court of Appeals found that a city ordinance requiring that not only drivers but also passengers on a golf cart have a permit (and a disability) to ride on a golf cart goes beyond what state law allows. The Court found that state law pre-empts such a unique restriction by one city. Thus, local ordinances governing special vehicles may not prohibit what state law allows or allow what state law prohibits.

1. Permitting scheme in ordinance

Local ordinances must describe the application process for a permit. A city ordinance may also set out conditions a person must meet to get an operator's permit. Cities may revoke permits if owners show an inability to operate the vehicles safely but cities must allow a person to dispute the revocation.

2. Specific vehicle requirements

State law includes some vehicle-specific requirements that must be in each city ordinance. Specifically, the local ordinance must:

RELEVANT LINKS:

[Minn. Stat. § 169.045, subd. 5.](#)
[Minn. Stat. § 169.045, subd. 7.](#)
[Minn. Stat. § 169.70.](#)
[Minn. Stat. § 169.045, subd. 7a.](#)

[Minn. Stat. § 169.045, subd. 8.](#)
[Minn. Stat. § 65B.48, subd. 5.](#)

[Regulating Special Vehicles, LMC Model Ordinance and Regulating Recreational Vehicles, LMC Model Ordinance.](#)



[Minn. Stat. § 169.011, subd. 47.](#)
[Minn. Stat. § 169.011, subd. 39.](#)
[49 C.F.R. § 571.500.](#)

- Require all golf carts to display a slow-moving vehicle emblem.
- Limit the operation of golf carts, UTVs, and ATVs on designated roadways to between sunrise and sunset, unless equipped with original equipment headlights, taillights, and rear-facing brake lights.
- Prohibit the operation of golf carts, UTVs, and ATVs in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of 500 feet.
- Likely not require that UTV, ATV, and golf cart operators have a driver's license. (However, operators must be old enough to purchase insurance on the special vehicle, discussed below).
- Require mini-trucks to have at least two headlamps, at least two tail lamps, and front and rear turn-signal lamps.
- Require mini-truck operators to have a valid driver's license.
- Allow the operators of any special vehicle to cross any street or highway that intersects a designated roadway.
- Require all special vehicles to have rear-view mirrors.
- State law requires insurance—on all four types of special vehicles—that complies with insurance for a motorcycle. City ordinances must require evidence of insurance complying with state law. Therefore, a person must present proof of insurance on the golf cart, UTV, ATV, or mini-truck before the city issues them a permit. If a person cannot get insurance on a special vehicle, the state insurance plan offers coverage.

The model ordinances linked here set forth the basic requirements for permitting these special vehicles in a city. Before adopting any of these ordinances, a city should review it with its attorney to adapt it to the city's specific circumstances. Because provisions in these ordinances are related to state statutes and affect state and federal constitutional rights, the city attorney should review any modifications to ensure they conform to current state law and legal decisions.

IV. Regulating neighborhood electric vehicles, medium-speed electric vehicles, and natural gas vehicles in cities

A "neighborhood electric vehicle" (NEV) is an electrically powered motor vehicle that has three or four wheels, and has a speed attainable in one mile of at least 20 miles per hour, but not more than 25 mph on a paved level surface.

RELEVANT LINKS:



[49 C.F.R. § 571.500.](#)

[Minn. Stat. § 169.224.](#)

[Minn. Stat. § 169.011, subd. 46a.](#)
[Minn. Stat. § 169.824, subd. 3 \(b\).](#)

“Medium-speed electric vehicles” (MSEV) are very similar, but must be completely enclosed and can go slightly faster than an NEV. An MSEV is an electrically powered four-wheeled motor vehicle that:

- Is equipped with a roll cage or crushproof body design.
- Can attain a maximum speed of 35 mph on a paved level surface.
- Is fully enclosed and has at least one door for entry.
- Has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater.
- Meets or exceeds regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements, except with respect to maximum speed.

Federal law, referenced in Minnesota statutes, requires that NEVs or MSEVs operating on public streets and highways meet these safety and equipment standards.

State law also governs operation of these small car-like vehicles on public roadways, allowing operation only on a street or highway with a speed limit less than 35 mph (except to make a direct crossing of that street or highway). A person may operate a three-wheeled neighborhood electric vehicle without a two-wheeled vehicle endorsement, provided the person has a valid driver's license. State law also gives cities the authority to prohibit or further restrict operation of NEVs and MSEVs on city streets, but gives no particular instruction on how cities might do this. Best practice suggests consultation with the city attorney before further regulating these tiny cars.

“Natural gas vehicle” or “NGV” means a motor vehicle that is capable of being propelled by natural gas, including compressed natural gas and liquefied natural gas. An NGV may exceed typical weight restrictions. State and federal law regulate NGVs.

V. Other vehicles subject to limited city regulation

Some low-power vehicles are subject to limited city regulation. Cities cannot generally prohibit use of non-motorized bicycles, motorized foot scooters (like motorized Razor™ scooters) pocket bikes, mini-motorcycles, motorized bicycles, or electric-assisted bicycles. State law governs operation of these vehicles on public roadways but cities may also regulate where some of these vehicles operate with city boundaries.

RELEVANT LINKS:

[Minn. Stat. § 169.011, subd. 4.](#)

[Minn. Stat. § 169.011, subd. 27.](#)

[Minn. Stat. § 169.011, subd. 45.](#)

[Minn. Stat. § 169.222.](#)

[Minn. Stat. § 169.72, subd. 1.](#)

[Minn. Stat. § 169.222, subd. 6.](#)
[Minn. Stat. § 169.222, subd. 4.](#)

[Minn. Stat. § 169.222, subd. 10.](#)

[Minn. Stat. § 160.263, subd. 2.](#)

A. Bicycles and electric-assisted bicycles

A “bicycle” is defined by state law to be any device capable of being propelled solely by human power upon which any person may ride, having

two tandem wheels and including any device generally recognized as a bicycle though equipped with two front or rear wheels. The term “bicycle” includes electric-assisted bicycles which are bicycles with electric motors that travel up to 20 mph. Electric-assisted bikes have additional regulation in state law.

The term “bicycle” does not include mopeds, scooters, motorized foot scooters, or similar devices. “Bicycles” are also not be confused with motorized bicycles which have a gas or electric motor and travel between 20 and 30 mph at most.

1. Bicycles in general

Persons operating bicycles have all of the rights and duties applicable to the driver of any other vehicle, except as provided by law. A city cannot prohibit persons from riding in the road, even if a bicycle path is available.

State law governs bicycle tires and brakes. Persons operating a bicycle upon a roadway are required to ride as close as practicable to the right-hand curb or edge of the roadway, with certain exceptions. Cities may, by ordinance, prohibit riding a bike on local sidewalks. A person riding a bike on the shoulder of a roadway must travel in the same direction as the adjacent vehicular traffic.

Bicycle events, parades, contests, or racing on a highway are legal if state or local authorities having jurisdiction over that highway approve the event. Participants in an approved bicycle highway event may be exempt from complying with traffic laws if traffic control is adequate to assure the safety of all highway users.

A city may, by ordinance, designate any roadway or portion of a roadway under its jurisdiction as a bicycle lane, and designate any sidewalk or portion thereof under its jurisdiction as a bicycle way, provided the designation does not destroy a pedestrian way or pedestrian access.

A city that designates a bicycle way or bicycle lane may:

- Designate the type and character of vehicles or other modes of travel that are allowed on the lanes or ways, provided this operation is not inconsistent with the safe use and enjoyment of bicycles.
- Establish priority rights of way on the lane or way, and otherwise regulate the use of the lane or way.

RELEVANT LINKS:

[Minn. Stat. § 160.263, subd. 4.](#)

[Minn. Stat. § 169.011, subd. 27.](#)

[49 C.F.R. § 571.1.](#)
[16 C.F.R. § 1512.](#)



[Minn. Stat. § 168A.03, subd. 1.](#)

[Minn. Stat. § 160.263, subd. 2.](#)

[Minn. Stat. § 169.222, subd. 4.](#)

- Paint lines, construct curbs, or establish other physical separations to exclude the use of the lane or way by vehicles other than those specifically permitted by the city.

The city council may, after public hearing, prohibit through-traffic on any highway or a highway portion if the council has designated it as a bicycle lane. Through-traffic on a trunk highway may not be prohibited. The city must erect and maintain official signs giving notice of the regulations and priorities, and must also mark all bicycle lanes and bicycle ways with appropriate signs.

The city council may, by resolution or ordinance, and without an engineering or traffic investigation, designate a safe speed, not lower than 25 mph, for any street or highway with an established bicycle lane. The ordinance or resolution designating a safe speed is effective when the city has erected appropriate signs designating the speed.

2. Electric-assisted bicycles in particular

An electric-assisted bicycle is defined as a bicycle that:

- Has two or three wheels that has a saddle and fully operable pedals for human propulsion.
- Meets the requirements of federal motor vehicle safety standards for a motor-driven cycle or for bicycles under federal law, and
- Has an electric motor that has a power output of not more than 1,000 watts; is incapable of propelling the vehicle at a speed of more than 20 miles per hour; is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and; disengages or ceases to function when the vehicle's brakes are applied.

An electric-assisted bicycle that fits the above definition does not require a state-issued certificate of title.

A governing body may not prohibit or restrict operation of an electric-assisted bicycle on any bikeway, roadway, or shoulder unless the governing body determines that operation of the electric-assisted bicycle is not consistent with the safety or general welfare of bikeway, roadway, or shoulder users, or with the terms of any property conveyance. Otherwise, a person may operate an electric-assisted bicycle (like any other bicycle) on the shoulder of a roadway, on a bikeway, or on a bicycle trail if not otherwise prohibited by state law.

RELEVANT LINKS:

[Minn. Stat. § 85.018, subd. 4.](#)

[Minn. Stat. § 169.222, subd. 6a.](#)

[Minn. Stat. § 221.091, subd. 2.](#)

[Minn. Stat. § 221.021.](#)

[Minn. Stat. § 169.011, subd. 27 \(3\).](#)

[Minn. Stat. § 169.011, subd. 46.](#)

[Minn. Stat. § 169.225.](#)



[Minn. Stat. § 169.225.](#)

[Minn. Stat. § 169.225, subd. 6.](#)

While no motorized vehicle may be operated on state trails designated for non-motorized use, this does not apply to electric-assisted bikes (or motorized devices operated by an individual with a physical disability)

No one under age 15 may operate an electric-assisted bicycle anywhere in the state.

B. Pedicabs, rickshaws, or other similar vehicles

A statutory or home rule charter city that licenses and regulates small vehicle passenger service must do so by ordinance. The ordinance must, at a minimum, provide for driver qualifications, insurance, vehicle safety, and periodic vehicle inspections.

A statutory or home rule charter city that has adopted an ordinance complying with this subdivision may enforce the registration requirement found in state law.

A statutory or home rule charter city that regulates, by ordinance, pedicabs, rickshaws, or other similar vehicles used for passenger service may permit authorized vehicles to be equipped with an electric motor that meets the requirements for an electric-assisted bicycle under state law.

C. Motorized foot scooters

A “motorized foot scooter” is a device with handlebars that the operator can stand or sit on, powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. It has no more than two 12-inch diameter or smaller wheels and has an engine or motor that is capable of a maximum speed of 15 mph on a flat surface. If operated under conditions when motor vehicle lights are required, a scooter must have a headlight and a taillight that comply with standards established by the commissioner of Public Safety.

Motorized foot scooter operators have the same rights and responsibilities as bicycle riders. Operators must comply with the following rules: They must not operate on a sidewalk, except when necessary to enter or leave adjacent property. They must not carry passengers. They must be at least 12 years old. If under 18, they must wear a helmet.

A person operating a motorized foot scooter on a public street must ride as close as practicable to the right-hand curb or edge of the roadway, except in the following situations:

- When overtaking and passing another vehicle proceeding in the same direction.

RELEVANT LINKS:

[Minn. Stat. § 169.225, subd. 6\(3\) \(b\).](#)

[Minn. Stat. § 169.011, subd. 45.](#)

[MN DPS Motorcycle and Motorized Bicycle Manual.](#)

[Minn. Stat. § 169.223, subd. 1.](#)

[16 C.F.R. § 1203.](#)

[Minn. Stat. § 169.223, subs. 1 and 4.](#)

[Minn. Stat. § 169.222, subd. 9.](#)

[Minn. Stat. § 171.02, subd. 3. Minnesota Motorcycle Safety Center.](#)

[Minn. Stat. § 169.223, subd. 2.](#)

- When preparing for a left turn, in which case the operator shall stop and dismount at the right-hand curb or right edge of the roadway, and shall complete the turn by crossing the roadway on foot, as a pedestrian must do.
- When reasonably necessary to avoid impediments or conditions that make it unsafe to continue along the right-hand curb or edge.

Cities cannot prohibit or regulate motorized foot scooters on city streets. A city may, however, prohibit motorized foot scooters on a bike path, lane, trail, or bikeway designated for non-motorized use only and governed by a local ordinance.

D. Motorized bicycle

Similar in function to an electric-assisted bicycle, the more powerful “motorized bicycle” or moped is a bicycle that fits the following parameters:

- Is propelled by an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less.
- Has a maximum of two brake horsepower.
- Can travel not more than 30 miles per hour on a flat surface with not more than 1 percent grade in any direction when the motor is engaged.

A motorized bicycle does not include an electric-assisted bicycle as defined above and in state law. Motorized bicycles are registered with the state as “mopeds.”

Motorized bicycles are subject to state law governing operation of motorcycles with several exceptions, including the following:

- Protective headgear includes helmets that meet national standards for bicycle helmets.
- A motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles may operate during nighttime hours.
- Protective headgear is not required for operators 18 years of age or older.
- Requirements for parking of motorized bicycles are the same as parking of regular bikes.

A motorized bicycle may be operated under either a driver’s license or a special permit (“moped permit”). The Minnesota Department of Public Safety issues both motorized bicycle operator’s permits and instructional permits.

A person under the age of 16 operating a motorized bicycle under permit is subject to the restrictions on motorcycles except that:

RELEVANT LINKS:

[Minn. Stat. § 169.223, subd. 3.](#)

[Minn. Stat. § 169.011, subd.44.](#) [Minn. Stat. § 169.011, subd. 3a.](#)

[Minn. Stat. § 169.011, subd. 44.](#)

[Minn. Stat. § 169.974.](#)



Minnesota Department of Public Safety
Driver and Vehicle Services
Division: [Motorcycle and Motorized Bicycle Manual](#)
(includes autocycles).

[Minn. Stat. § 171.02 subd. 2 \(c\) \(9\).](#)

[Minn. Stat. § 169.686, subd. 1.](#)

- A parent or guardian of an operator under the age of 16 may also ride on the motorized bicycle as a passenger or operator if the motorized bicycle is equipped with a seat and footrests for a second passenger.
- A motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles may be operated during nighttime hours.
- Operators under age 18 must wear protective headgear that meets national standards.

Motorized bicycles must not operate on a sidewalk at any time, except when such operation is necessary for the most direct access to a roadway from a driveway, alley, or building.

E. Motorcycles and autocycles

“Motorcycle” includes motor scooters and autocycles. It is a motor vehicle having a seat or saddle for the use of the rider. It is designed to travel on not more than three wheels in contact with the ground.

Note the term “motorcycle” does not include either motorized bicycles or electric-assisted bicycles (as defined in state law and this memo) or a tractor.

Motorcycle operators must have a valid standard driver’s license with a two-wheeled vehicle endorsement as provided by law. The commissioner of Public Safety will only issue a two-wheeled vehicle endorsement if the applicant has a valid two-wheeled vehicle instruction permit. The commissioner of Public Safety may issue a two-wheeled vehicle instruction permit to any person over 16 years of age. State law governs motorcycle equipment, driving rules, and noise limitations.

An autocycle is defined as a motorcycle that:

- Has three wheels in contact with the ground.
- Is designed with seating that does not require operators or any occupants to straddle or sit astride it.
- Has a steering wheel.
- Is equipped with antilock brakes.
- Is originally manufactured to meet federal motor vehicle safety standards for motorcycles in Code of Federal Regulations, title 49, part 571, and successor requirements.

A person may operate an autocycle without a two-wheeled vehicle, or motorcycle endorsement, provided the person has a valid Class D driver’s license. A driver and passengers of an autocycle must properly use shoulder and lap seat belts.

RELEVANT LINKS:



[Minn. Stat. § 169.011, subd. 46.](#)
[Minn. Stat. § 169.011, subd. 44.](#)
[Minn. Stat. § 169.974.](#)
[Minn. Stat. § 65B.48, subd. 5.](#)

F. Pocket bikes and mini-motorcycles

State law does not define or regulate the use of pocket bikes, also known as mini-motorcycles, mini-bikes, mini-pocket rockets, or mini-choppers. Marketed as toys, they stand only about 15 inches above the ground and reach speeds ranging from 30 to 50 mph depending on the vehicle, the rider’s weight, and the riding surface.

Mini-motorcycles previously fit the definition of a motorized foot scooter in state law; however, current state law defines motorized foot scooters as having a wheel size of 12 inches. Since the wheel size on most mini-motorcycles is 10 inches, they no longer fit that definition. Thus, operation of mini-motorcycle with any size wheel on public roads must likely comply with state law governing motorcycles. And state law requires a valid driver’s license or permit and insurance to operate a motorcycle on public roads.

VI. Vehicles used by pedestrians

Some low-power vehicles are for pedestrian use only and are not subject to city regulation. These include Segways™, self-balancing scooters, manual or motorized wheelchairs, scooters, tricycles, or similar devices used by people with disabilities as a substitute for walking.

A. Segways™ and self-balancing scooters

State law defines a Segway as an “electric personal assistive mobility device,” meaning a self-balancing device with two non-tandem 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 mph. It must have reflective material on the front, back, and wheels, visible at night from 600 feet when illuminated by the lower beams of headlamps of a motor vehicle.

Recently, there has been an increase in the use of self-balancing scooters, often called “hoverboards.” Self-balancing scooters generally have two wheels and are connected to a self-balancing control mechanism using built-in gyroscopes and sensor pads. These devices are propelled by the user’s balance and body position.

A person operating a Segway or self-balancing scooter has the rights and responsibilities of a pedestrian under state law and must also follow specific rules:

- Operation may be on a bicycle path.
- It may not carry more than one person.
- No person may operate it on a roadway, sidewalk, or bicycle path at a rate of speed that is not reasonable and prudent under the conditions.

[Minn. Stat. § 169.011, subd. 26.](#)



[Minn. Stat. § 169.212.](#)

RELEVANT LINKS:

[Minn. Stat. § 169.212, subd. 2.](#)

[Minn. Stat. § 169.212, subd. 2.](#)

[Minn. Stat. § 169.212, subd. 4.](#)

[State v. Greenman](#), 825 N.W.2d 387 (Minn. Ct. App. 2013).

[Minn. Stat. § 169.011, subd. 93.](#)

[Minn. Stat. § 169.21.](#)
[Minn. Stat. § 169.21, subd. 5.](#)

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- A Segway operator must use due care in operating the device.

A Segway or self-balancing scooter may be operated on a roadway only under the following circumstances:

- While making a direct crossing of a roadway in a marked or unmarked crosswalk.
- Where no sidewalk is available.
- Where a sidewalk is so obstructed as to prevent safe use.
- When so directed by a traffic control device or by a peace officer
- Temporarily in order to gain access to a motor vehicle.

A Segway or self-balancing scooter may not be operated at any time on a roadway with a speed limit of more than 35 mph except to make a direct crossing of the roadway in a marked crosswalk. A person operating these devices on a sidewalk must yield the right-of-way to pedestrians at all times. A person operating a Segway on a bicycle path must yield the right-of-way to bicycles at all times.

A city may not prohibit or further regulate the operation of these devices, except that a city may allow and regulate their operation on roadways within its jurisdiction that have a speed limit of more than 35 mph. The Minnesota Court of Appeals has found that a Segway is not a “motor vehicle” for purposes of driving while intoxicated (DWI) statute.

B. Wheelchairs, scooters, and tricycles

State law defines a “wheelchair” to include any manual or motorized wheelchair, scooter, tricycle, or similar device used by a disabled person as a substitute for walking.

A person using a wheelchair must comply with state law governing pedestrians because the definition of “pedestrian” is any person on foot or in a wheelchair. Specifically, a person using a wheelchair along a roadway must stay on the left side of the street or its shoulder giving way to oncoming traffic. Where there are accessible sidewalks pedestrians in wheelchairs must use them.

VII. Conclusion

The proliferation of unique vehicles is likely to continue. The state recognizes city authority to regulate many of these vehicles to ensure safe local streets. Cities regulate particular vehicles by passing ordinances. Best practice suggests close consultation with the city attorney to ensure that local ordinances accomplish the desired level of regulation and are consistent with state and federal law.

Appendix A: Definitions

Definitions of conveyances that are not motor vehicles

All-terrain vehicle: A motorized vehicle with: not less than three, but not more than six low pressure or non-pneumatic tires; a total dry weight of 2,000 pounds or less; and a total width from outside of tire rim to outside of tire rim that is 65 inches or less. All-terrain vehicle includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes. **All-terrain vehicle, Class 1:** An all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is 50 inches or less. **All-terrain vehicle, Class 2:** "Class 2 all-terrain vehicle" means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is greater than 50 inches but not more than 65 inches. [Minn. Stat. § 84.92, subd. 8-10.](#) *"Motor vehicle" includes an all-terrain vehicle only if the all-terrain vehicle (1) has at least four wheels, (2) is owned and operated by a physically disabled person, and (3) displays both disability plates and a physically disabled certificate and does not include an all-terrain vehicle except (1) an all-terrain vehicle described in paragraph (b), or (2) an all-terrain vehicle licensed as a motor vehicle before August 1, 1985. [Minn. Stat. § 168.002, subd. 18 \(b\) \(c\).](#)

Bicycle: Every device capable of being propelled solely by human power upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or rear wheels. Bicycle includes an electric-assisted bicycle. "Bicycle" does not include scooters, motorized foot scooters, or similar devices. [Minn. Stat. § 169.011, subd. 4.](#)

Bicycle – electric-assisted: A bicycle with two or three wheels that: has a saddle and fully operable pedals for human propulsion; meets the requirements: of federal motor vehicle safety standards for a motor-driven cycle in Code of Federal Regulations, title 49, sections 571.1 et seq.; or for bicycles under Code of Federal Regulations, title 16, part 1512, or successor requirements; and has an electric motor that has a power output of not more than 1,000 watts, is incapable of propelling the vehicle at a speed of more than 20 miles per hour, is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and disengages or ceases to function when the vehicle's brakes are applied. [Minn. Stat. § 169.011, subd. 27.](#)

Electric personal assistive mobility device: A self-balancing device with two non-tandem 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. [Minn. Stat. § 169.011, subd. 26.](#) *"Motor vehicle" does not include an electric personal assistive mobility device. [Minn. Stat. § 168.002, subd. 18 \(d\).](#)

Motorized foot scooter: A device with handlebars designed to be stood or sat upon by the operator, and powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, and that has no more than two 12-inch or smaller diameter wheels and has an engine or motor that is capable of a maximum speed of 15

miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. An electric personal assistive mobility device, a motorized bicycle, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter. [Minn. Stat. § 169.011, subd. 46](#). *[“Motor vehicle”](#) does not include a motorized foot scooter. [Minn. Stat. § 168.002, subd. 18 \(e\)](#).

Snowmobile: A self-propelled vehicle originally manufactured and designed for travel on snow or ice steered by skis or runners. Snowmobile does not include the following vehicles equipped with aftermarket ski and track configurations: an all-terrain vehicle; an off-highway motorcycle; an off-road vehicle; a mini truck; a utility task vehicle; or any other vehicle being operated off road. [Minn. Stat. § 84.81, subd. 3](#).

***Snowmobile is not a motor vehicle:** "Motor vehicle" means any self-propelled vehicle including, but not limited to, automobiles, trucks, dune buggies, minibikes, motorcycles, trail bikes, and all-terrain vehicles (ATV's), but not including snowmobiles. [Minn. Rule 6100.0500, subd. 7](#).

Wheelchair: Includes any manual or motorized wheelchair, scooter, tricycle, or similar device used by a disabled person as a substitute for walking. [Minn. Stat. § 169.011, subd. 93](#).

Definitions of motor vehicles

Autocycle: A motorcycle that: has three wheels in contact with the ground; is designed with seating that does not require operators or any occupants to straddle or sit astride it; has a steering wheel; is equipped with antilock brakes; and is originally manufactured to meet federal motor vehicle safety standards for motorcycles in Code of Federal Regulations, title 49, part 571, and successor requirements. [Minn. Stat. § 169.011, subd. 3a](#).

Electric Vehicle Medium Speed Vehicle (MSV): An electrically powered four-wheeled motor vehicle, equipped with a roll cage or crushproof body design, that can attain a maximum speed of 35 miles per hour on a paved level surface, is fully enclosed and has at least one door for entry, has a wheelbase of 40 inches or greater and a wheel diameter of ten inches or greater, and except with respect to maximum speed, otherwise meets or exceeds regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements. [Minn. Stat. § 169.011, subd. 39](#).

Electric Vehicle: Neighborhood Electric Vehicle (NEV): An electrically powered motor vehicle that has three or four wheels, and has a speed attainable in one mile of at least 20 miles per hour but not more than 25 miles per hour on a paved level surface. [Minn. Stat. § 169.011, subd. 47](#).

Golf cart: Not specifically defined other than “motorized golf cart.” [Minn. Stat. § 169.045, subd. 1](#).

Mini truck: A motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement

capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements. A mini truck does not include: a neighborhood electric vehicle or a medium-speed electric vehicle; or a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements. [Minn. Stat. § 169.011, subd. 40a.](#)

Motor vehicles: Every vehicle that is self-propelled, other than an electric personal assistive mobility device [Segway] and any vehicle propelled or drawn by a self-propelled vehicle, and not deriving its power from overhead wires except snowmobiles. [Minn. Stat. § 171.01, subd. 39.](#)

Motorcycle: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and autocycles. Motorcycle does not include motorized bicycles or electric-assisted bicycles or a tractor. [Minn. Stat. § 169.011, subd. 44.](#)

Motorcycle – off highway: A motorized, off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered under chapter 168 for highway use if it is also used for off-highway operation on trails or unimproved terrain. [Minn. Stat. § 84.787, subd. 7.](#) *"Motor vehicle" includes an off-highway motorcycle modified to meet the requirements of state traffic regulations. [Minn. Stat. § 168.002, subd. 18 \(f\).](#)

Motorized bicycle: A bicycle that is propelled by an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. Motorized bicycle does not include an electric-assisted bicycle or a motorcycle. [Minn. Stat. § 169.011, subd. 44-45.](#)

Motorized recreational vehicle: Any self-propelled, off-the-road, or all terrain conveyance, including but not limited to a snowmobile, minibike, amphibious vehicle, motorcycle, go-cart, trail bike, or dune buggy. [Minn. Rule 9900.0100, subp. 6.](#)

Natural gas vehicle (NGV): A motor vehicle under subdivision 42 that is capable of being propelled by natural gas, including compressed natural gas and liquefied natural gas. [Minn. Stat. 169.011, subd. 46a.](#)

Off-highway vehicles: For the purposes of sections 84.771 to 84.930, "off-highway vehicle" means an off-highway motorcycle [OHV], an off-road vehicle [ORV], or an all-terrain vehicle. [Minn. Stat. § 84.771.](#) In some situations, an OHV or and ORV is a motor vehicle, but an ATV is not one.

Off-road motorcycle: Off-highway motorcycle" means a motorized, off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered under chapter 168 for highway use if it is also used for off-highway operation on trails or unimproved terrain. [Minn. Stat. § 84.787, subd. 7.](#)

Off-road vehicle: A motor-driven recreational vehicle capable of cross-country travel on natural terrain without benefit of a road or trail. Off-road vehicle does not include a snowmobile; an all-terrain vehicle; a motorcycle; a watercraft; a farm vehicle being used for farming; a vehicle used for military, fire, emergency, or law enforcement purposes; a construction or logging vehicle used in the performance of its common function; a motor vehicle owned by or operated under contract with a utility, whether publicly or privately owned, when used for work on utilities; a commercial vehicle being used for its intended purpose; snow-grooming equipment when used for its intended purpose; or an aircraft. [Minn. Stat. § 84.797, subd. 7.](#)

Recreational vehicles: Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to snowmobiles, trail bikes, ATVs, utility task vehicles, hovercraft, and motor vehicles used for recreation. [Minn. Stat. § 84.771.](#) Certain recreational vehicles may be considered a motor vehicle in specific situations.

Trail bike: not specifically defined, but referred to in various statutes and rules. [Minn. Stat. § 84.90](#); [Minn. Rule 6105.0210](#); [Minn. Rule 6100.0500](#); [Minn. Rule 6136.0300](#); [Minn. Rule 6232.0300](#). A trail bike may be a motor vehicle depending on the use and the location of operation.

Utility task vehicle (UTV): a side-by-side, four-wheel drive, off-road vehicle that has four wheels, is propelled by an internal combustion engine with a piston displacement capacity of 1,200 cubic centimeters or less, and has a total dry weight of 1,800 but less than 2,600 pounds. [Minn. Stat. § 169.045, subd. 1\(3\)](#). Some UTVs may be considered motor vehicles depending on the use, operation and modifications.

Appendix B: State and federal regulations

Vehicles or conveyances and definitional citation	Operator regulations including licensure	Includes	Who regulates the operation	Statutory cites
All-terrain vehicles (ATVs). Minn. Stat. § 84.92, subd. 8.	DNR Registration. No driver's license required.	Class one and class two ATVs.	State and city. City by permit, resolution or ordinance.	Minn. Stat. §§ 84.92-84.928.
Bicycles Minn. Stat. § 169.011, subd. 4.	No title, driver's license, or registration required.	Human-powered bikes, electric assisted bicycles.	State and city only if city sets up a bike trail in city boundaries.	Minn. Stat. § 169.222. Minn. Stat. § 169.222, subd. 4(d). Minn. Stat. § 160.263, subd. 2.
Bicycle - Electric-assisted Minn. Stat. § 169.011, subd. 27.	No title, driver's license, or registration required. Minimum operator age is 15.		State. City may prohibit electric-assisted bicycles on trails for non-motorized use in some situations, only by local ordinance.	Minn. Stat. § 169.222. Minn. Stat. § 169.223, subd. 5 (3).
Bicycle, motorized (moped) Minn. Stat. § 169.011, subd. 45.	Title. Driver's license or operator's permit Registration tax.		State.	Minn. Stat. § 169.011, subd. 45. Minn. Stat. § 171.02, subd. 3. Minn. Stat. § 168.013, subd. 1h.
Conveyances used by pedestrians Minn. Stat. § 169.011, subd. 93.	No driver's license, registration or tax applies.	Wheelchairs, scooters, tricycles.	State.	Minn. Stat. § 169.21
Electric cars-Neighborhood electric vehicles (NEVs) Minn. Stat. § 169.011, subd. 47.	Title. Valid driver's license. Registration.		State and city.	Minn. Stat. § 169.224. Minn. Stat. § 168A.05, subd. 9. Minn. Stat. § 171.02, subd. 1. Minn. Stat. § 168.013, subd. 1. 49 C.F.R § 571.500 and successor requirements.
Electric cars - Medium-speed electric vehicles (MSEVs): Minn. Stat. § 169.011, subd. 39.	Title. Valid driver's license. Registration.		State and city.	Minn. Stat. § 169.224. Minn. Stat. § 168A.05, subd. 9. Minn. Stat. § 168.013, subd. 1.

Vehicles or conveyances and definitional citation	Operator regulations including licensure	Includes	Who regulates the operation	Statutory cites
				49 C.F.R § 571.500 and successor requirements.
Electric personal assistive mobility device Minn. Stat. § 169.011, subd. 26.	No driver's license, registration or tax applies.	Segways™ and self-balancing scooters.	State.	Minn. Stat. § 169.212
Motorcycles, autocycles. Minn. Stat. § 169.011, subd. 3a, 44, 45.	Title. Valid driver's license with a two-wheeled vehicle endorsement. Autocycle: driver's license only.	Autocycle.	State.	Minn. Stat. § 168A.05. Minn. Stat. § 169.974; Minn. Stat. § 169.011, subd. 3a.
Motorized foot scooters. Minn. Stat. § 169.011, subd. 46.	No driver's license, title, registration or tax required. The minimum operator age is 12 years old.	Razors™	State and city. City only by ordinance and may only prohibit on bike paths, trail or non-motorized bikeway.	Minn. Stat. § 169.225 Minn. Stat. §§ 168.002, subd. 18 (e); 168.013, subd. 1; 168.09, subd. 1; 169.011, subd. 46.
Natural gas vehicles (NGVs) Minn. Stat. 169.0911, subd. 46a.	Title. Valid driver's license. Registration.	Overweight NGVs allowed per Minn. Stat. § 169.824, subd. 3 (b) (c).	State.	Minn. Stat. § 168A.05, subd. 9. Minn. Stat. § 171.02, subd. 1. Minn. Stat. § 168.013, subd. 1
Off-highway motorcycle. Minn. Stat. § 84.787, subd. 7.	Limited to registration with DNR. May have dual registration to use on public roads.		State. City by ordinance or resolution.	Minn. Stat. §§ 84.787-84.796 .
Off-highway vehicles (OHV). Minn. Stat. § 84.771.	Limited to registration with DNR.	Off-highway vehicle means an off-highway motorcycle, an off-road vehicle, or an all-terrain vehicle.	State—outside city boundaries. Cities may regulate ORVs and ATVs in city boundaries.	Minn. Stat. §§ 84.771- 84.781 (off-highway vehicles). Stat. § 84.787, subd. 7. (off -highway motorcycle); Minn. Stat. § 84.797, subd. 7. (off-road vehicle) Minn. Stat. §§ 84.92-84.928 (all-terrain vehicles).
Off-road vehicle (ORV). Minn. Stat. § 84.797, subd. 7.	Driver's license required unless operated only off road.	Vehicles able to travel cross-county with no road or trail.	State and city.	Minn. Stat. §§ 84.771 – 84.781.
Pocket bikes. No definition in state law or rule.	Likely driver's license with a two-wheeled vehicle endorsement.	Pocket bikes, mini-motorcycles, mini-	State.	Minn. Stat. § 65B.48, subd. 5.

Vehicles or conveyances and definitional citation	Operator regulations including licensure	Includes	Who regulates the operation	Statutory cites
		bikes, mini-choppers, mini-rockets.		Minn. Stat. § 84.788, subd. 12 (d).
Snowmobiles Minn. Stat. § 84.81, subd. 3.	Registration with DNR with exceptions. Minn. Stat. §84.82.	Snowmobiles on frozen public waters.	State. City, only in city boundaries and on frozen public waters with DNR permission.	Minn. Stat. §§ 84.81-84.915. Minn. R. 6100.5200, subp. 2. Minn. Stat. § 84.795, subd. 8 (3). Minn. Stat. § 84.85.
Special vehicles Minn. Stat. § 169.045.	City permit. Registration for ATVs, UTVs and mini trucks. Mini truck operators must have driver's license, possibly with an exception.	Motorized golf carts, UTVs, ATVs, and mini-trucks.	City in city boundaries. Non-city operation may be subject to state or county regulation.	Minn. Stat. § 169.045. Minn. Stat. § 169.045, subd. 7.



STAFF MEMORANDUM

SUBJECT: Monthly Public Works Report – July 2019
MEETING DATE: August 8, 2019
PREPARED BY: Corey Schweich, Public Works Superintendent
REQUESTED ACTION: Information Only

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance “shovel ready” status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Staff is presenting a written report for Public Works activities in July.

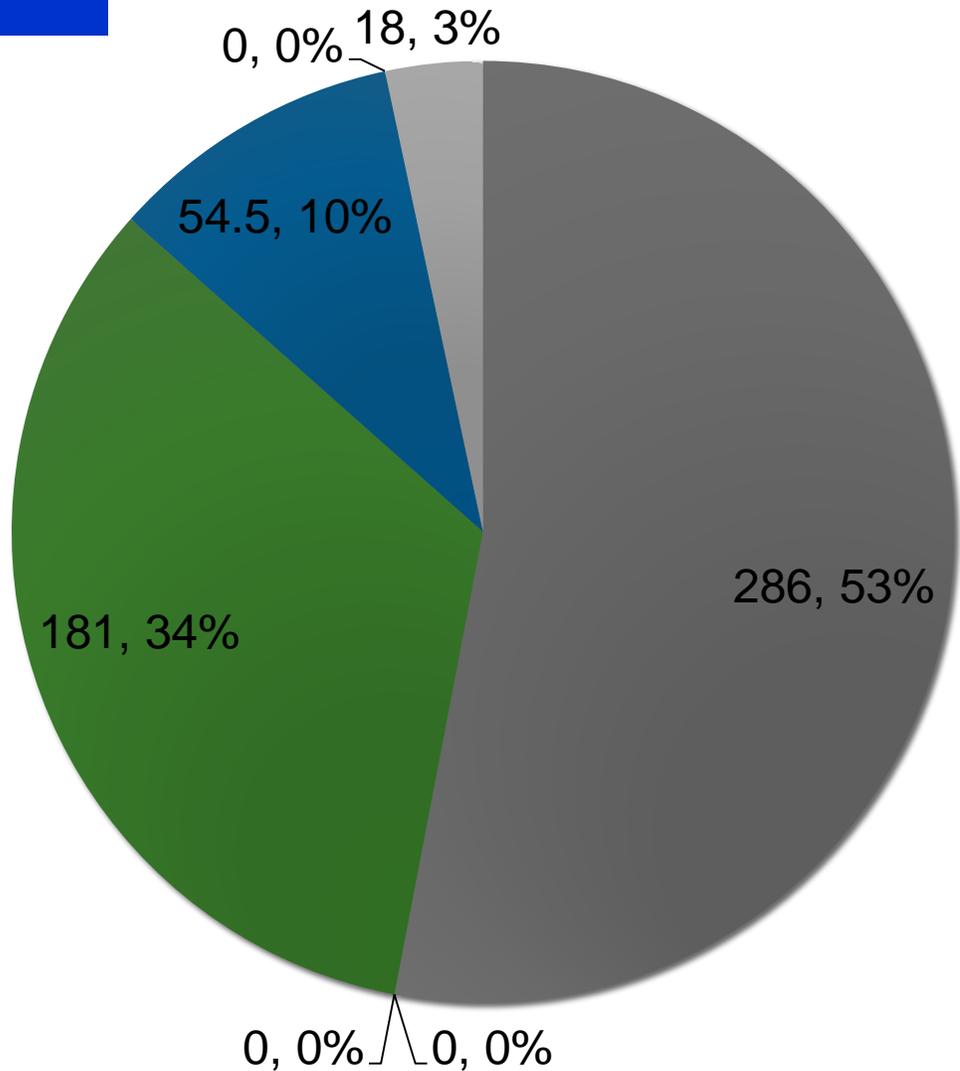
DISCUSSION:

- It should be noted that the Department was extremely short staffed in July and focused on completing day to day operations.
- As reported previously, two candidates were identified to fill the open Public Works positions, both started in late July. Derek Cavanaugh has a background working with concrete along with a significant amount of snow and ice control experience. Jason Schoenbauer has a residential construction background, but more recently has worked with property and facility maintenance and also has snow and ice control experience. Both should be great additions to the department. They will both be trained on all aspects of the job.
- Staff performed the annual 20 lead and copper samples on the water system.
- As part of the 2019 Mill & Overlay project, the Public Works Department was responsible for installing drain tile in the street on Jean Way and Aaron Drive. Staff rented the equipment and installed roughly 1250' of tile. Staff patched in all of the asphalt in late July. Public Works will also be replacing all of the street signs adjacent to the project as time permits.
- Staff has continued to drag and maintain the ballfields for the season, this will continue throughout the summer on a daily basis. This work is completed with the utility tractor purchased in the last year.
- Confined space safety was the topic this month for of the regional safety group made up of Elko New Market, Lakeville, and Farmington. Staff will continue to attend monthly safety trainings through this group.
- Staff repaired some catch basins that had some sink holes around them.
- Public Works assisted the county with some plugged culverts.
- Superintendent Schweich attended project team meetings with the architects that have been contracted to perform the design work associated with the Police Department renovation. There will be more meetings to attend in the coming months.
- The Department has been extremely busy dealing with various minor breakdowns within the Department's fleet. Joe, the Mechanic, continues to do an excellent job juggling projects, depending on equipment needs.

PUBLIC WORKS Combined Time By Department

July 2019

Total Hours:
539.50



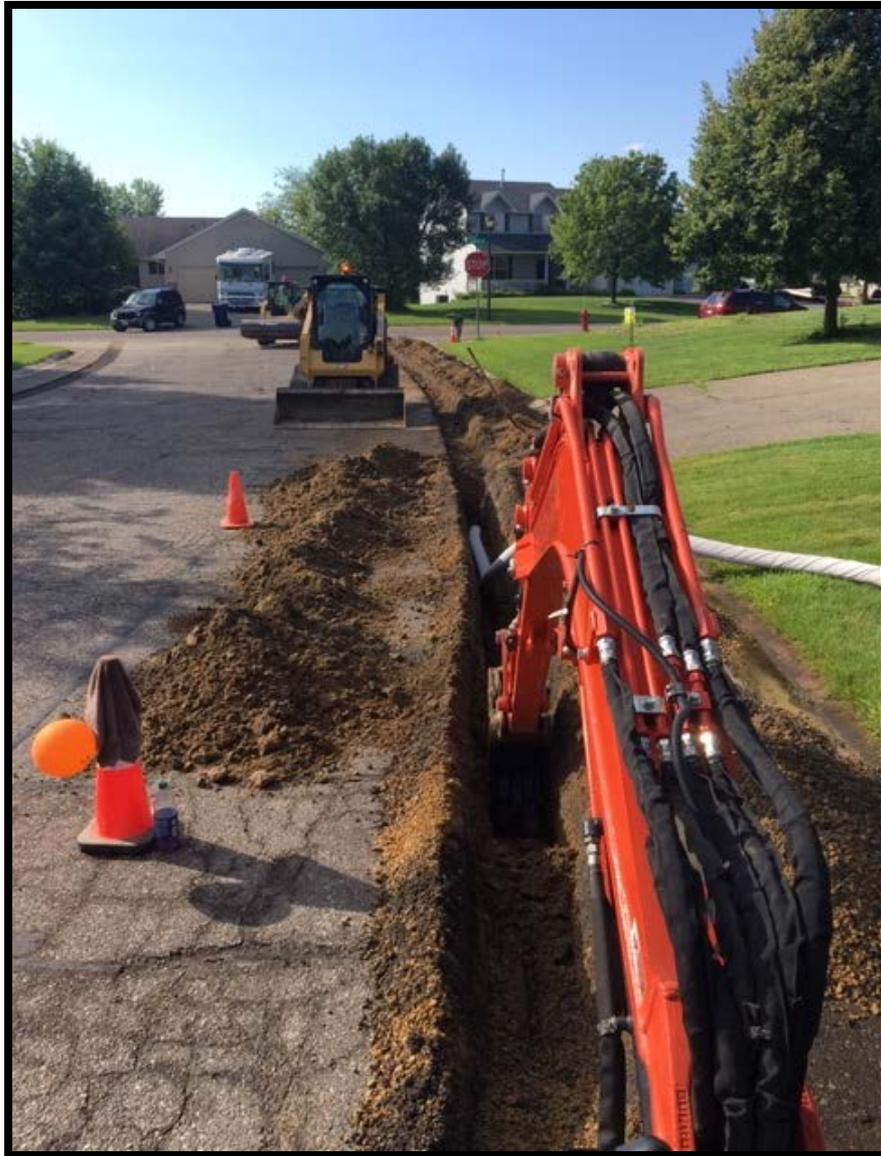
- Public Works
- Buildings
- Water
- Stormwater
- Snow Plowing
- Parks & Grounds
- Sewer

PHOTO ALBUM

COREY SCHWEICH

PUBLIC WORKS SUPERINTENDENT











STAFF MEMORANDUM

SUBJECT: Monthly Police Activity- July, 2019
MEETING DATE: August 8, 2019
PREPARED BY: Brady Juell, Chief of Police
REQUESTED ACTION: Information Only

COMMUNITY VISION:

- A mature growing freestanding suburb of the Twin Cities Metropolitan Area, preserving historic landmarks and small town character while providing suburban amenities and services, as well as full range of employment, housing, business, service, social, technology infrastructure and recreational opportunities for citizens and visitors
- Promote a diverse commercial base including light industrial and facilitating planned redevelopment which will be aesthetically pleasing with architectural standards that promotes quality development
- Provide a full range of municipal services to its residents. The City will allocate sufficient resources to meet the growing needs of the community
- A comprehensive park and trails system that will have sufficient facilities, play fields and open space to meet the needs of residents
- An effective and efficient transportation system, including access to the greater metropolitan area, transit opportunities, and improved connectivity to the interstate
- Provide community oriented local government and be financially sound, engaging in long-term financial planning to provide municipal services without undue burden on tax payers

5 YEAR GOALS:

- Diverse tax base, employment opportunities, additional businesses and services, promote high quality broad spectrum of residential development
- Advance "shovel ready" status of areas guided for commercial and industrial development
- Acquisition of land for public purposes, position City to take advantage of land acquisition opportunities
- Enhance quality of life through parks, trails, recreational programming and cultural events
- The development of residential lots and an increase in residential building permit activity

COMMUNITY ORIENTED LOCAL GOVERNMENT:

- Community Involvement
- Organizational Improvement
- Problem Solving
- Performance Measurement
- Professionalism

BACKGROUND:

Staff is presenting a written report to the City Council reporting on Police Department activities for the past month.

DISCUSSION:

Officer Bell visited with a family whose son had just finished making a model RC car that looked like a police car. The boy was so proud of it he wanted to have a "Real Police Officer" see it.

The Traveling Vietnam War Memorial made a pit stop at the Elko Speedway. They stopped there to regroup before it traveled to a park in Lakeville for display. Ofc Bell gave a police escort for the wall from the Speedway to the Lakeville border where Lakeville PD took over.

Officer Gareis and Hotaling visited a lemonade stand that was raising money for the Juvenile Diabetes Research Fund. They bought cookies and lemonade on behalf of the department.

Officer Gareis and Hotaling visited with families at the Family Fun Night at Wagner Park.

Officers Rudolph and Hotaling were at the Scott County Fair "Kid's Day." Over 600 kids were signed up and got a chance to see an Elko New Market squad car and meet and ask questions to our officers. Officers Hotaling and Rudolph handed out hundreds of stickers, gave tours of the squad cars, and answered questions from the kids about police work.

The community conversation continues in regards to ATV/Golf Cart use inside the city limits. In the month of July officers had 22 complaints and/or contacts with ATVs or Golf Carts.

Congratulations to Officer Bell! He was the only officer in the state to complete the Senior Leadership Series hosted by the MN Bureau of Criminal Apprehension. This is a series of leadership courses taught by top law enforcement leaders in the state and is hosted by the MN BCA to further the professionalism of officers that serve Minnesota. This level of coursework is second to none and took a high level of dedication to complete.

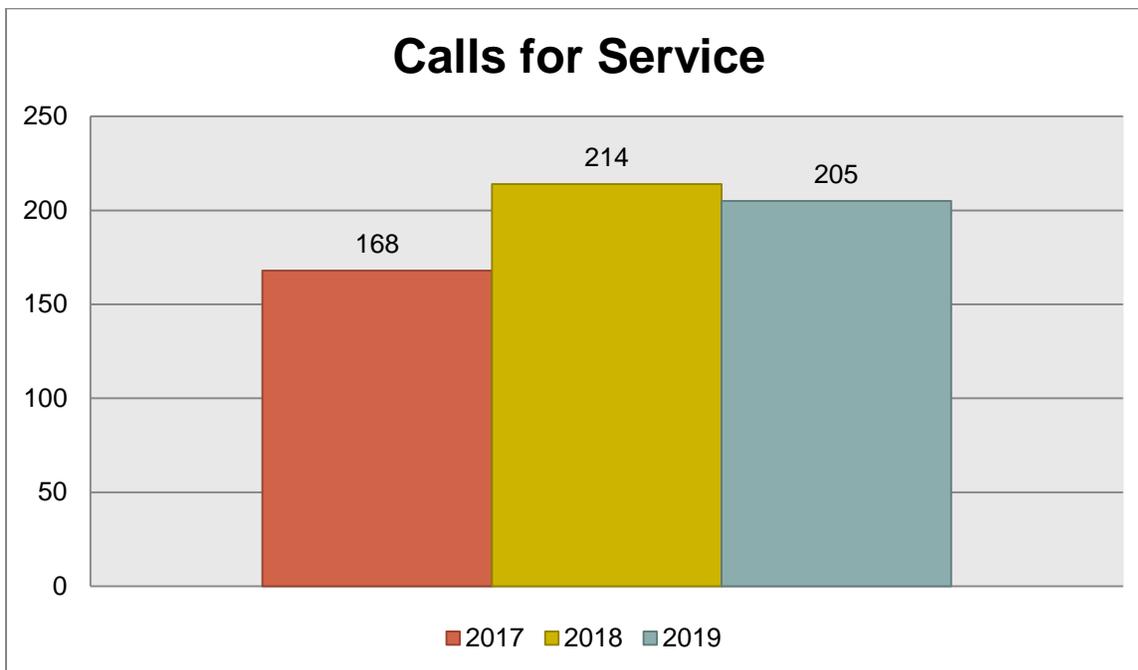




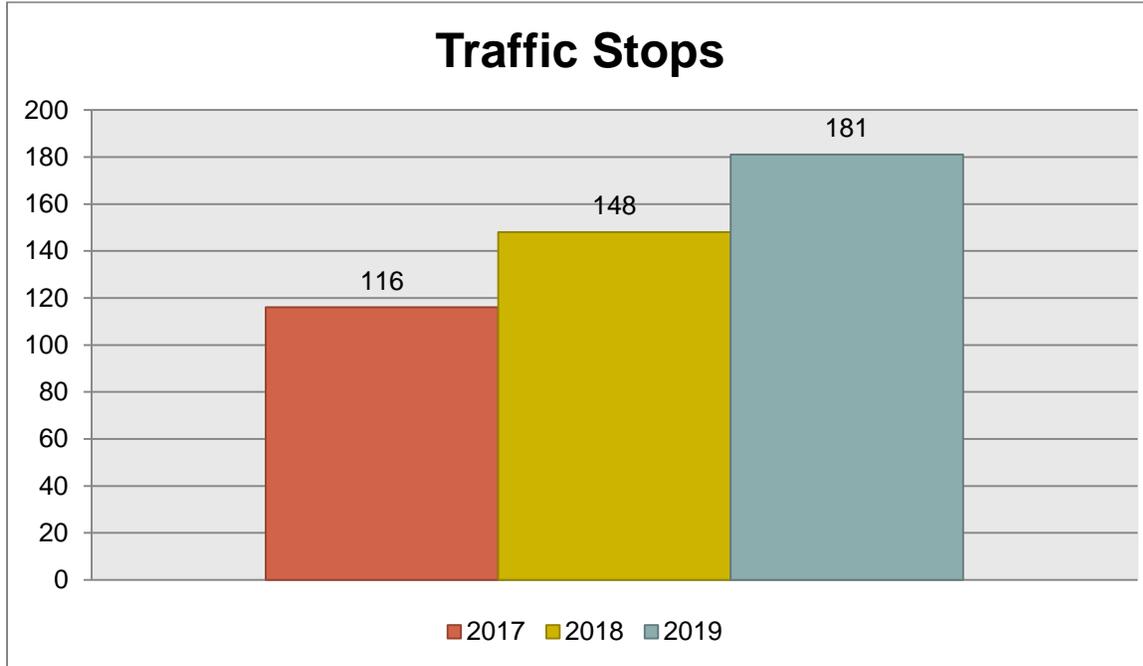
STATISTICAL INFORMATION – July, 2019

0	Fire Calls
34	Ordinance reports
2	Property Damage
0	Motor vehicle crash
7	Noise/nuisance complaints
19	Public Assists
7	Motorist Assist
1	Harassment
6	Hazards
0	DWI
7	Administration (Rec. Fire Permits, Records checks, etc.)
15	Suspicious persons/vehicles/activities
3	Crimes against family
4	Theft
0	Threats
6	Medicals
1	Alarms
2	Lock outs
34	Assists to other agencies
120	Extra Patrols
1	Traffic driving complaints

Calls for Service:

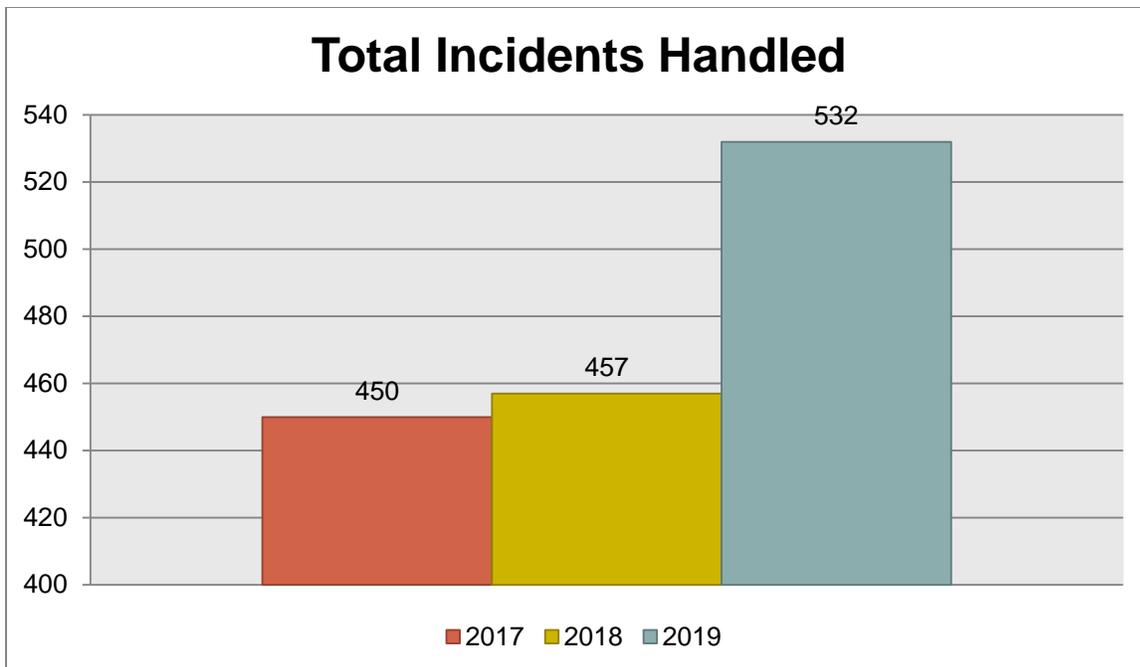


Total Traffic Stops:



181 traffic stops were conducted in June, 2019. **142** verbal and written warnings issued and **39** citations issued for speed, expired registration, no proof of insurance/no insurance, careless driving, and driving after revocation. **0** citations issued for violation of winter parking ordinances on plowing days. **0** citations were issued for DWI

Total Incidents Handled:





601 Main Street
Elko New Market, MN 55054
phone: 952-461-2777 fax: 952-461-2782

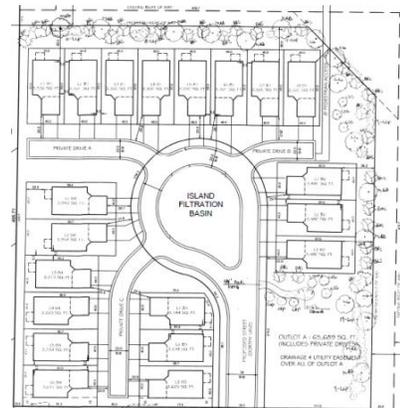
MEMORANDUM

TO: CITY COUNCIL, PLANNING COMMISSION, EDA & CHAMBER OF COMMERCE
FROM: RENEE CHRISTIANSON, COMMUNITY DEVELOPMENT SPECIALIST
SUBJECT: COMMUNITY DEVELOPMENT UPDATES
DATE: AUGUST 5, 2019

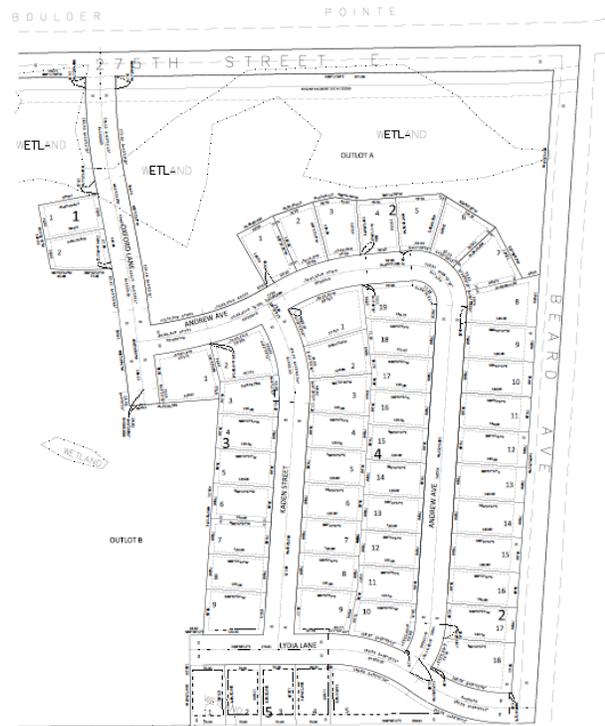
Background / History

The purpose of this memo is to provide updates regarding miscellaneous projects and activities being worked on by Community Development staff. Below is a summary of projects that are currently being worked on, inquiries received, and miscellaneous information:

Christmas Pines – Construction has commenced on this 20 lot residential townhome development. Construction of the streets and public utilities is expected to be complete by the end of August. The lots should be eligible for building permits in the near future.



Boulder Heights – Construction on this 53 lot residential subdivision has resumed. City water and sewer lines are currently being installed, which will be followed by street construction and paving. The development will also include paving of 275th Street between CSAH 91 and Oxford Lane. The development is expected to be completed in the fall of 2019.



Dakota Acres / Global Properties – The City has received official land use applications for development of a 68-unit apartment development on a 3.1 acre lot, proposed by Global Properties. Currently proposed are two separate apartment buildings; the first phase, which is proposed for construction in late 2019, would consist of one 28 unit building. The property is zoned High Density Residential and apartments are a permitted use. A public hearing is tentatively scheduled for August 27, 2019. Below is a rendering of a proposed building.



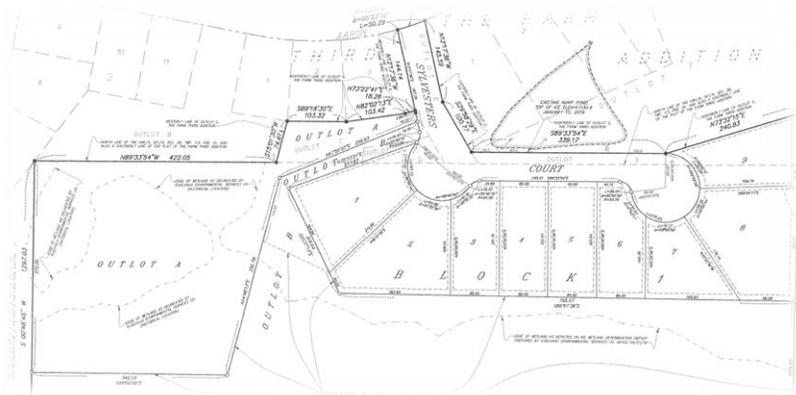
Adelmann Property – City staff continues to work with the Adelmann family and their consultants in the preparation of an AUAR, a required environmental study, for their 243 acres located near the I-35 / CSAH 2 interchange. As part of the AUAR and preparation for development, several studies are being completed, including a wetland delineation, traffic impact study, tree inventory, and geotechnical work. The AUAR project is underway and is expected to be completed in early fall of 2019.



Aaron Le Property – City staff is working with a potential developer / builder who is interested in developing the Aaron Le property. City staff met with the potential developer on June 13, 2019 and has provided detailed estimates of the City's fees relating to the development. The current concept plan depicts 77 single-family residential lots on approximately 33.5 acres. Development requires annexation of the property from New Market Township.



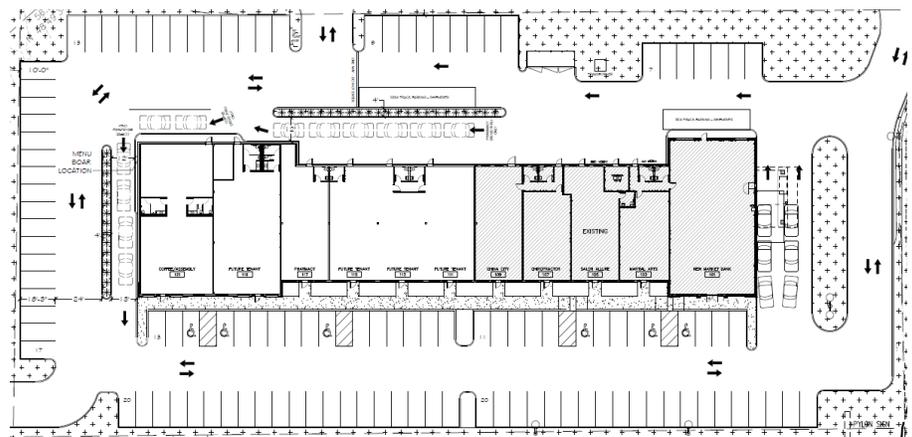
Sylvester Meadows – A public hearing was held on May 28, 2019 regarding the request for rezoning, and preliminary and final plat approval of Sylvester’s Meadow, a single-family residential development containing 9 lots. The Planning Commission continued action on the item at that meeting and on July 30th recommended approval of the request to the City Council. The City Council is expected to consider the request on August 22, 2019. The City must act on the request by September 3, 2019.



Pete’s Hill – The City has received formal application for rezoning and development of this 36 acre property which was annexed into the City of Elko New Market in June, 2019. The City’s Planning Commission held a public hearing regarding the development proposal on July 30, 2019 and recommended approval to the City Council. The City Council is expected to take action on the request on August 22, 2019. The property is located immediately south of Pete’s Hill Park and the proposed development contains 46 lot residential lots which are a mix of single-family lots and twin-home lots. The applicant and City are currently working on revised construction plans and a Development Contract. The developer is currently proposing construction this fall, 2019.



Elko New Market Commerce Center – The City has received land use applications associated with Phase II of the Elko New Market Commerce Center. The City’s Planning Commission held a public hearing regarding a proposed additional drive-through lane on July 30, 2019 and recommended approval of the request to the City Council. The City Council will consider the application on August 8, 2019. If approved, construction on the second and final phase of the retail center is expected in the fall of 2019.



Business Leads – Staff has prepared community marketing information for hardware stores, convenience stores and grocery stores. The information was disseminated to a few real estate brokers. Staff met with a potential convenience store considering locating in Elko New Market.

Building Permits – The City issued no permits for single family homes in July, 2019. Numerous permits have been issued for re-roofing due to the recent hail storm in Elko New Market.

Ordinance Updates –

- **High Density Residential Zoning Amendments** - The City’s Planning Commission recently considered and recommended approval of amendments to the City’s R4 (high density residential) zoning district, specifically in terms of landscaping and setback requirements. The amendments would reduce current greenspace requirements, and reduce internal setback requirements. The proposed amendments are consistent with the City’s goal of providing housing options for all income levels, and removing barriers to providing housing options for all income levels. The City Council will consider the amendments on August 8, 2019.
- **Ground Mounted Solar Panels** – The City’s Planning Commission recently considered and recommended approval of amendments to the City’s Code pertaining to ground mounted solar panels. The amendment would allow a larger ground mounted solar energy system in the City’s Institutional zoning districts, which is where uses such as schools, churches and government buildings would typically be located. The amendments, which will be considered by the City Council on August 8, 2019, are supportive of the City’s goal of promoting access to solar energy.

2040 Comprehensive Plan – City staff has been working on the draft 2040 Comprehensive Plan. The City Council must approve the draft Plan for review by adjacent jurisdictions. Adoption of the final plan is anticipated by the end of 2019 or early 2020.

Roundabout Project – City staff and Bolton & Menk, the City’s engineering firm, have been working on the roundabout project scheduled for construction in 2020. Bolton and Menk continues to work on preparation of the final construction plans and project coordination with county/state agencies, while City staff continues to work on right-of-way acquisition. Two right-of-way acquisitions have been finalized and a third is in process.



**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
JULY 30, 2019
6:30 PM**

1. CALL TO ORDER

Chairman Smith called the meeting of the Elko New Market Planning Commission to order at 6:30 p.m.

Commission members present: Smith, Kruckman, Hanson, and Priebe

Members absent and excused: Humphrey and Ex-officio member Anderson

Staff Present: Community Development Specialist Christianson, Planner Sevening, City Administrator Terry, City Attorney McDowell-Poehler, and City Engineer Revering.

2. PLEDGE OF ALLEGIANCE

Chairman Smith led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made to approve the agenda as submitted. Motion carried: (4-0).

4. PUBLIC COMMENT

There was no public comment.

5. ANNOUNCEMENTS

There were no announcements.

6. APPROVAL OF MINUTES

A. It was moved by Kruckman and seconded by Hanson to approve the minutes of the June 25, 2019 meeting as submitted. Motion carried: (4-0).

7. PUBLIC HEARINGS

A. Request for Rezoning and Preliminary Plat Approval of Pete's Hill

Christianson presented the request for rezoning and preliminary plat approval of Pete's Hill containing 46 lots on 36.42 gross acres. Of the 46 lots, 23 are proposed as twin-home lots and 23 are proposed as single-family lots. She explained that the property was recently annexed into the City limits and described the surrounding land uses. She explained that the City's Comprehensive Plan guides the property to low density residential which allows for both single family detached and twinhomes as proposed. She explained that the property is

currently zoned Urban Reserve and the developer is proposing Planned Unit Development zoning. The criteria for rezoning property was reviewed, as well as the criteria and purpose of PUD zoning. Deviations from the City Code that are being requested for the development were reviewed, as well as those elements being proposed by the developer that exceed City Code requirements.

Christianson reviewed lot sizes and setback requirements, and also easements that are needed. She noted that the current plan submittal would require temporary construction easements from two adjacent property owners. The landscaping plan was reviewed and the requirement for a 20' landscape buffer along collector roads. Three retaining walls proposed within the development were reviewed, and it was recommended that all landscaping and retaining walls be located outside of road rights-of-ways. The tree inventory and tree preservation plan were reviewed, noting that of the 1,404 significant trees identified, 700 are proposed to be removed to accommodate street and building pad construction.

Utility issues including sanitary sewer, water, and stormwater were reviewed. The wetlands on the site were reviewed including a DNR Protected Wetland on the southern portion of the property. Christianson stated that proposed Lots 1 and 2 Block 4 do not meet wetland setback and buffer requirements as proposed, and recommended they be combined into one lot that meets these requirements.

Transportation related items were reviewed and it was noted that Xerxes Avenue, Beard Avenue and 273rd Street are all identified as major collector streets in the City's Comprehensive Plan. 273rd Street is proposed to be improved using a similar design as the existing Xerxes Avenue. She stated that all streets in the development are proposed at 28' in width within a 60' right-of-way. She stated that a temporary cul-de-sac is required at the easterly end of Samantha Way. She stated the driveways are not recommended on collector streets and because of this, the City Engineer is recommending that Block 4 which contains two lots be eliminated from the plat. Also reviewed was the proximity of the development to existing parks, and the proposed trail connection from the development into Pete's Hill Park.

Following the presentation on the development, Christianson advised the Commission that feedback was being sought in regards to proposed Lots 1 and 2 Block 4, noting that the City Planning Department and the City Engineer have a difference of opinion about the approval of the lots in Block 4. City Engineer Revering advised the Commission that he recommends a trail be included along 273rd Street East and that all retaining walls be privately owned and maintained.

It was moved Smith, seconded by Kruckman to open the public hearing at 7:04 p.m.

John Wichmann and Steve Soltau with Elko 34, LLC introduced themselves and the civil engineer on the project, Dan Schmit with Sathre-Berquist. Mr. Soltau suggested that retaining walls within the development would be either maintained by an association or covered by an easement and maintenance agreement among the affected property owners, so future maintenance is a shared expense. Mr. Soltau also asked that Lots 1 and 2 Block 4 be

allowed to remain in the plat, and that the lots could be designed with a shared driveway. Mr. Wichmann also suggested that the suggested trail along 273rd Street would not go anywhere and asked that it not be required with this development.

The Commission discussed the driveway access into proposed Lots 1 and 2 Block 4, along Beard Avenue, which are approximately 400' from the Oxford Avenue intersection.

Gene Duenow, 27127 Thomas Avenue, owns property adjacent to the proposed development and stated that the property is fabulous and would be a great addition to the City. He then stated his concern about the proposed developers and that he wants to be more informed about what's going on. He stated that he believes they are cutting corners and is concerned about the developer's financial viability. He stated concern over wetlands on the property and stated the City should make sure the wetlands are being taken care of. He pointed out a drainage way that currently exists on the east side of the property and noted his concern about how the drainage way would be maintained. Mr. Duenow also expressed concern over the temporary grading proposed on his property and that he is unwilling to grant a temporary easement to the developer. He stressed that he wants a quality development.

Dan Schmidt from Sathre-Berquist indicated that the tree surveyor who was locating trees on the Elko 34 property was approached by the neighbor asking questions about the development. He described the drainage way which was referenced by Mr. Duenow and how stormwater is proposed to be handled in that area, including a series storm catch basins, drain tile, and emergency overflow. Mr. Schmidt also described the need for the temporary grading easement on Mr. Duenow's property and stated that he could design around that if they were not able to obtain a temporary grading easement.

Developer Steve Soltau addressed the Commission and Mr. Gene Duenow. He spoke about the temporary grading easement that would provide future benefit to the Duenow property and indicated they can work around it if needed. He committed to the Planning Commission to work with Mr. Duenow going forward. He assured the Commission that the partnership is extremely well funded and capable of delivering a quality development.

With no further comments from the public, it was moved by Kruckman and seconded by Hanson to close the public hearing at 7:32 p.m.

The Commission discussed proposed Lots 1 and 2 Block 4 and the proposed driveways on Beard Avenue. The four members of the Commission had a two/two split opinion about whether to remove the two lots from the plat, or whether to combine the two lots into one single lot and allow a single driveway access. Commissioner Hanson questioned City Engineer Revering about his recommendation to include a trail along 273rd Street. Revering responded that he believes the trail would complete a pedestrian route through the Windrose development and other areas of the community. Developer Steve Soltau indicated to the Commission that the Block 4 lots can be designed so the cars would not need to back out onto Beard Avenue. Commissioners Priebe and Smith indicated support for one lot in Block 4, while Commissioners Hanson and Kruckman indicated support for eliminating Block 4 from the plat.

Following significant discussion, it was moved by Hanson and seconded by Preibe to recommend approval of the request to rezone the property from Urban Reserve to Planned Unit Development for the following reasons:

- 1) The proposed rezoning has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official City Comprehensive Plan which guides the property to a residential land use.
- 2) The proposed use of the property for single-family homes and twin homes is compatible with present and future land uses of the area.
- 3) The proposed use of the property complies with performance standards contained in the City’s Zoning & Subdivision Ordinances, except as specifically identified in the “Pete’s Hill PUD Standards” table.
- 4) The proposed residential use of the property for single-family homes and twin homes can be accommodated with existing public services and will not overburden the City’s service capacity.
- 5) Traffic generation by the proposed development is within capabilities of streets serving the property.

And noting that the single-family lots shall be subject to the requirements of the R1 Single-Family Residential, and the twin home lots shall be subject to the requirements of the R3 Medium Density Residential zoning districts except as identified below:

PETE’S HILL PUD									
		ENM R-1 District Requirements		Approved for Pete’s Hill Lots 1-14 Block 1 Lots 5-11 Block 3 Lot 1 Bock 4 (Single Family Lots)		ENM R-3 District Requirements		Approved for Pete’s Hill Lots 15-30 Block 1 Lots 1-3 Block 2 Lots 1-4 Block 3 (Twin Home Lots)	
Minimum Area	Lot	12,000	square feet	11,271	square feet, as depicted on final plat drawing	6,000	square feet per dwelling unit	6,000	square feet per dwelling unit
Minimum Area – Corner Lot	Lot	12,500	square feet	12,500	square feet	6,000	square feet per dwelling unit	6,000	square feet per dwelling unit
Minimum Width	Lot	85’		83’, as depicted on the final plat drawing		50’		44.5’, as depicted on the final plat drawing	
Front Yard		30’		25’		25’		25’	

Setback				
Rear Yard Setback	30'	30'	20'	20'
Side Setback	10'	10'	7'	7'
Side Setback – Corner Lot	25'	25'	25'	25'
Rear Yard Deck Setback	20'	20'	20'	20'
Stormwater Pond Structure Setback	35'	35'	35'	35'
Wetland Setback	35'	35'	40'	40'
Garage Stall Requirements	Provide for location of 3-stall attached garage	Provide for location of 3-stall attached garage	Provide for location of 3-stall attached garage	Allow 2-stall attached garage
Cul-de-sac Maximum Length	500'	600'	500'	600'

And noting the following improved subdivision design elements:

- 1) Outlots A and B contain wetlands, natural environment features and wildlife habitat, and will be dedicated to the City to satisfy the park dedication requirements for the development.
- 2) Front home elevations will include stone or brick;
- 3) Wood will not be allowed as an exterior building material;
- 4) There will be a unified architectural theme for twin homes;
- 5) The development will include construction of a walking trail leading from the development to the Pete’s Hill Park trail system;
- 6) Additional trees will be provided to separate the single-family portion of the development from the twin home portion of the development.

Motion carried: (4-0)

It was then moved by Priebe and seconded by Smith to recommend to the City Council approval of the request for preliminary plat approval of Pete’s Hill for the following reasons:

- 1) The proposed use of the property for residential purposes meets the intent of the guided land use for the area.
- 2) The proposed plat complies with the purposes of the Zoning Ordinance and Comprehensive Plan.

And subject to the following conditions:

- 1) Preliminary plat approval is granted in accordance with the following plans and subject to conditions below, and staff comments dated 7/24/19:

- a. Preliminary Plat drawing dated 7/1/19, prepared by Sathre-Berquist
 - b. Site Plan containing 2 sheets, dated 7/3/19, prepared by Sathre-Berquist
 - c. Preliminary Construction Plans containing 24 sheets, dated 7/3/19, prepared by Sathre-Berquist
 - d. Storm Sewer Pollution Prevention Plan containing 3 sheets, dated 7/3/19, prepared by Sathre-Berquist
 - e. Stormwater Management Plan containing 212 sheets, dated July, 2019, prepared by AE2S
 - f. Hydroflow Storm Sewer Summary Report dated 7/3/19, prepared by AE2S
 - g. Tree Survey containing 6 sheets, dated 7/3/19, prepared by Sathre Berquist
 - h. Preliminary Landscape Plan containing 3 sheets, dated 7/1/19, prepared by Norby & Associates
- 2) Approval of the preliminary plat is subject to approval of the wetland replacement plan application by both the City of Elko New Market and the Army Corp of Engineers. The developer shall assume all risk associated with preparing the preliminary plat application in advance of the required wetland application approvals.
 - 3) Approval is subject to the recommendations and approvals of the City Engineer and Public Works Director.
 - 4) Approval is subject to the recommendations of the City Attorney.
 - 5) The developer must enter into a development contract with the City of Elko New Market at the time of final plat approval.
 - 6) The existing well on the property shall be properly sealed and the septic system shall be properly abandoned prior to development of the property. Demotion permits are required for removal/demolition of any existing structures on the property.
 - 7) Retaining walls proposed within the development shall be privately owned and maintained, and reflected in the development agreement and homeowner's association documents, as approved by the City Attorney. Retaining walls located within drainage and utility easements will require an Encroachment Agreement with the City of Elko New Market. Retaining walls located on, and crossing property lines of multiple single-family home lots will require an easement agreement between the applicable lots.
 - 8) The landscaping plan and construction plans shall be revised to show no new trees, plantings, or retaining walls within the public right-of-way on 273rd Street East.
 - 9) Proposed Outlots A and B shall be dedicated to the City and shall satisfy all park dedication requirements associated with the development.
 - 10) The developer shall obtain the necessary easements needed to construct the proposed trail and proposed water line over the K2 Towers, LLC property, and evidence of such easement shall be provided to the City.
 - 11) Water shall be looped to connect the water lines in proposed Pete's Hill Trail and existing Meadow Ridge Drive.
 - 12) The construction plans shall be amended to depict an 8" water line in Pete's Hill Trail, as opposed to the 12" line currently depicted.
 - 13) The developer shall obtain the necessary easements needed to grade the property adjacent to Lot 3 Block 2 (Duenow property), and adjacent to Lot 11 Block 3 and Pete's Hill Trail (Anderson property).
 - 14) A temporary cul-de-sac must be provided at the easterly end of proposed Samantha Way, along with associated temporary easements.

- 15) "Future Road Extension" signs must be placed at the east end of Samantha Way and Kari Way.
- 16) "Wetland Buffer" signs, meeting the requirements of Section 11-11-4 of the Zoning Ordinance, shall be placed along all lot lines at the wetland buffer location (Proposed Block 4).
- 17) A lighting plan shall be submitted and approved by the City Engineer.
- 18) Proposed Lot 11 Block 3 shall be reconfigured to allow for future lot frontage from the adjacent (Anderson) property.
- 19) An additional 17' of right-of-way shall be dedicated along the easterly side of Beard Avenue and the southerly side of 273rd East, for a total of 50'.
- 20) The final plat drawing shall be amended to show a drainage and utility easement over the entire Outlot B.
- 21) The final plat drawing shall be amended to show that proposed Lot 30 Block 1 has dedicated road frontage on proposed Pete's Hill Trail.
- 22) The final plat drawing shall be amended to show "273rd" Street, as opposed to "270th" Street.

And noting that:

- 1) The trail requirement along collector roadways is being waived due to the overall lack of trail system in the general area.
 - 2) A deviation from the maximum cul-de-sac length is being allowed due to constraints caused by wetlands.
 - 3) Proposed Lot 1 Block 2 may be affected by the required 35' stormwater pond setback.
 - 4) Street names may be subject to change and will be approved as part of the final plat approval by the City Council.
 - 5) The Planning Commission, on a two-to-two vote, could not reach consensus regarding proposed Lots 1 and 2 Block 4, and recommend that the City Council make the final determination regarding the matter, with the options being as follows:
 - a. Proposed Lots 1 and 2 Block 4 shall be combined into a single lot that can meet wetland buffer (25') and setback (35') requirements. Block 4 and Outlot B boundaries shall be amended so that the wetland buffer is contained entirely within Outlot B.
- OR
- b. Lots 1 and 2 Block 4 shall be eliminated from the plat based on the requirement that private driveways are not permitted on collector roadways.

Motion carried: (4-0)

B. Request for Conditional Use Permit for Accessory Drive-Through Lane

Sevening presented the request to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility in connection with Phase II of the Elko New Market Retail Center, as proposed by Greystone Construction. She explained that a conditional use permit was issued in 2017, which allowed two accessory drive-through lanes, one at each end of the building. She explained that Greystone is currently requesting an additional drive-through lane on the north side of the building to accommodate a proposed pharmacy. She explained that if the drive-through were to be approved, a different type of tenant could occupy the space and utilize the drive-through in the future.

Sevening reviewed the criteria for granting a conditional use permit and stated that the criteria for granting the permit have been satisfied. She also reviewed the criteria specific to the granting approval of drive-through facilities as stated in the Zoning Ordinance. She reviewed the proposed site design and noted that staff believes any conflicts between the two westerly drive-through facilities can be mitigated with pavement markings and signage. She reviewed overall site circulation at the site.

Following Sevening's presentation, it was moved by Smith and seconded by Kruckman to open the public hearing at 8:02 p.m.

Eric Bender representing Greystone Construction addressed the Commission. Hanson asked about the parking spaces on the north side of the building, and concern about pedestrians needing to cross the drive-through stacking spaces. Mr. Bender stated that the parking spaces on the north side of the building are intended for employees.

Christianson noted that construction of this phase of the development would trigger the construction of the parking lot connection between the Firehouse Grill and the Retail Center properties.

With no further comments, it was moved by Smith and seconded by Kruckman to close the public hearing at 8:08 p.m. It was then moved by Smith and seconded by Hanson to recommend to the City Council approval of the request to amend Conditional Use Permit #C1-2017 to allow an additional accessory drive-through facility for the following reasons:

1. The proposed accessory drive-through facility is consistent with the comprehensive plan and permitted in the Residential Mixed Use land use category with an approved conditional use permit.
2. The 2030 Comprehensive Plan guides the property to Residential Mixed Use and the draft 2040 Comprehensive Plan guides the property to Commercial. Both land uses permit accessory uses such as drive-through facilities.
3. The drive-through facility proposed on the north side of the building conforms with all applicable performance standards.
4. An additional drive-through facility can be accommodated by existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed drive-through facility will not go beyond the capabilities of the streets serving the property.
6. The drive-through facility proposed on the north side of the building has been designed to meet City Code requirements, including the amount of required vehicle stacking space.
7. The site has been designed to allow circulation options within the site and around the building; the proposed drive-through facility will not interfere with access into or within the site. Potential traffic conflicts will be minimized through signage and pavement markings.
8. The accessory drive-through facility has been designed in a manner that will prevent vehicle stacking into public streets or rights of way.
9. The proposed vehicle stacking lane and drive-through window have been located on the north side of the building, which does not face residentially zoned properties. The design

is such that vehicles will be able to maneuver throughout the site with minimal traffic conflicts.

10. The site has been designed to screen the proposed drive-through facility from view of adjoining residential zoning districts and public street rights-of-way by way of landscaping within the proposed curbed island.

And with the following conditions:

1. The drive-through lane shall be constructed as shown on the plan sheet dated February 12, 2019 with revisions on July 3, 2019 and July 15, 2019.
2. Landscape screening shall be provided on the north side of the northerly drive-through to screen it from public street rights-of-way. Landscape screening can be placed within the raised islands.
3. A lighting plan meeting the requirements of Section 11-4-7 of the City Code will be required prior to building permit approval.

Motion carried: (4-0)

C. Proposed Zoning Ordinance Amendment – R4 District Standards

Sevening presented her staff report regarding proposed zoning ordinance amendments related to the R-4 District landscaping requirements and internal setback requirements which were also reviewed at the June Planning Commission meeting. She began by highlighting two goals contained in the City's Comprehensive Plan, to provide a variety of housing options, and to remove barriers to providing housing options within the City.

She explained that the current standards date back to 2006 and the City has now received its first ever concept plan for a development on an R-4 zoned property. While reviewing the concept plans, staff suggested that certain standards in the R-4 District be further reviewed. She explained that in an effort to better support high-density affordable housing development in the community, a suggestion is being made to amend two standards relating to internal setback and landscaping requirements, that apply to the R-4 zoning district.

In question was the current requirement that at least fifty percent (50%) of the total site area be landscaped, and the current requirement that buildings need to be set back at least 30' from private drives and private parking lots. Sevening reviewed research conducted on the codes of other cities in this regard, including Farmington, Lakeville, Prior Lake, Savage, Shakopee, Apple Valley, Belle Plaine, Jordan, Lonsdale and New Prague. The research concluded that Elko New Market's regulations were far more restrictive than all the noted communities in regards to the landscaping and internal setback requirements. She also reviewed visual depictions of nine other apartment sites within nearby communities and provided estimates regarding the landscaping percentages and internal setbacks at those sites.

It was moved by Priebe and seconded by Kruckman to open the public hearing at 8:21 p.m. With no comments regarding the proposed ordinance amendments, it was moved by Kruckman and seconded by Smith to close the public hearing was closed at 8:22 p.m.

With no further questions or comments from the Planning Commission, it was moved by Hanson and seconded by Kruckman to recommend approval of the proposed changes to the City Council, as follows:

- Reduce the landscaping requirement in the R-3 and R-4 zoning district from 50% to 30%;
- In the R4 district, reduce the building setback from the curb line of a private drive from 30' to 25';
- In the R4 district, reduce the building setback from private parking areas from 30' to 15'.

Motion carried: (4-0)

D. Proposed Zoning Ordinance Amendment – Ground Mounted Solar Panels

Sevening introduced a proposed Zoning Ordinance text amendment regarding the maximum area for ground mounted solar energy systems in the Institutional zoning district. She explained that solar energy systems are allowed as a permitted accessory use in all zoning districts, and that ground mounted solar energy systems are limited in size to the maximum area allowed for detached accessory structures. She stated that research was completed on the topic, including model ordinances from the State of Minnesota, and feedback was solicited from Ideal Energy and the City Attorney. Following the research, staff is recommending that the Ordinance be amended to allow a larger area for ground mounted solar panels in the Institutional zoning district as follows: a maximum area of 4,000 square feet for parcels between 10 and 20 acres, and a maximum area of 8,000 square feet for parcels greater than 20 acres. Sevening explained that minor amendments are also being suggested, to include a purpose, and clarification on how to calculate the area of a ground mounted solar system.

It was moved by Smith, seconded by Hanson to open the public hearing regarding the proposed amendments at 8:31 p.m. With no comments from the public, it was moved by Smith and seconded by Hanson to close the public hearing at 8:31 p.m. It was then moved by Hanson and seconded by Priebe to recommend to the City Council approval of an amendment to Section 11-14-4 of the City Code as contained in the Planning Commission report dated July 30, 2019, as follows:

- Add section containing Purpose: Solar energy systems shall serve only the parcel on which they are located.
- Amend section pertaining to Roof Mounting: Roof mounted solar collectors may be flush mounted, bracket mounted, or ballasted. Bracket mounted and ballasted solar collectors shall be permitted only when a determination is made by the city building official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.
- Amend section pertaining to Maximum Area:

a. Ground mounted solar energy systems shall be limited in size to the maximum area requirement allowed for accessory structures or no more than twenty five percent (25%) of the rear yard, whichever is less, except as otherwise provided in subsection b.

b. On Institutionally zoned parcels with a lot area of 10 acres or greater, ground mounted solar energy systems shall comply with the following area limitations:

Lot Area	Maximum Area Allowed
10 acres to 20 acres	4,000 square feet
Over 20 acres	8,000 square feet

c. Calculation of Area: The area of a ground mounted solar energy system shall be comprised of the total solar energy system footprint, including the space between systems, calculated based on the extent of the perimeter of the entire system.

Motion carried: (4-0)

8. GENERAL BUSINESS

A. Continued Request for Rezoning and Preliminary Plat Approval of Sylvester Meadows

Christianson introduced the agenda item and presented her staff report regarding the continued request for rezoning and preliminary plat approval of Sylvester Meadows containing nine single-family residential lots and two outlots on 41 acres, proposed by Bernard Mahowald. She presented a powerpoint and reviewed the locations of the Farm developments which were also developed by Mr. Mahowald, and the location of the proposed plat. She stated that the request had been reviewed by the Planning Commission on May 28, 2019 at which time the required public hearing was held, and following the public hearing the Commission recommended that the item be continued. She reviewed the conditions placed on the continuance and the status of such conditions, as follows:

- ✓ Staff is directed to extend the City's statutory review period for an additional 60-days for a total of 120-days. (Completed)
- ✓ Lance Heisler with Lampe Law Group shall be given until July 8, 2019 to submit an independent hydrology study for consideration by the City in conjunction with the current request. (Hydrology study not received)
- ✓ The applicant shall redraw the plat to address the park dedication as requested by the Parks Commission. (Completed)
- The developer shall comply with the recommendations of the City Engineer and Public Works Director. (This condition stands)
- ✓ A tree inventory meeting the requirements of Section 12-9-9 of the City's Subdivision Ordinance must be completed and must identify the location of all significant trees on the property. 40% of the significant trees must be protected as part of the development. (Completed)

- ✓ The final plat drawing shall be amended to show a drainage and utility easement covering the proposed drainage swales on proposed Lots 1, 2 & 9. (Redesigned so no longer needed / Completed)
- ✓ The lift station shown on proposed Lot 9 should be moved onto the existing outlot owned by the City, if possible. If not possible, the drainage and utility easement on proposed Lot 9 should be expanded to cover any future maintenance needs for the proposed lift station. (Completed)
- The construction plans shall be amended to include a standby generator to service the proposed sanitary sewer lift station. (The stand-by generator has not been shown in the current plan set. The design engineer indicated that the stand-by generator will be included in the final construction plan set, to the satisfaction of the City Engineer and Public Works Director.)
- ✓ The final plat drawing shall be amended to depict a drainage and utility easement covering the wetland and required wetland buffer area on proposed Outlot A. (Completed)
- The bump-out area shown on the westerly curve on Sylvesters Court should be removed / redesigned. (The bump out area has not been removed as originally requested because removing the bump-out area would cause proposed Lots 1 and 2 to not meet the required lot width at the building setback line.)

Christianson reviewed the location of wetlands along the northern portion of the property and also explained that a wetland delineation had been completed and the boundary accepted by the City following concurrence by a Technical Evaluation Panel. She noted that the area is not a DNR Protected Water and is under the jurisdiction of the Army Corp of Engineers.

Christianson also reviewed transportation related issues, and specifically noted that the width of the proposed Sylvester's Court where it connects to Aaron Drive is 50' in width, which was the standard for the City of New Market at the time the Farm 3rd Addition was platted. Staff supports a continuation of that right-of-way width due to the small number of lots within the development and because lots are only proposed on one side of the street. She also noted that the proposed cul-de-ac is proposed at approximately 650' in length which exceeds the maximum length of 500'. She stated that variances are being requested for these two items.

The recommendation of the Parks Commission was reviewed, which included dedicating land for a future trail connection from the existing Mahowald Park to the proposed Sylvester Court sidewalk system. Christianson explained that the developer proposes dedication of proposed Outlot A to the City to achieve the recommendation of the Parks Commission.

Christianson outlined a concern related to the proposed right-of-way bump out area adjacent to Lots 1, 2 and 3, and stated that staff is recommending that the street be paved into a partial cul-de-sac in that area, so the right-of-way would not extend into the yards.

Christianson stated that the official public hearing was held on May 28th, 2019 and that the Commission could consider accepting additional public comment, and also stated the City was approaching the 120 day deadline so a recommendation from the Commission regarding

the applications would be needed. Chairman Smith advised that additional public comment would be accepted.

Mr. Dan Chlan, 26620 Natchez Avenue, addressed the Commission. He stated that he had just received the hydrology study for review and that it would be submitted to the City on either Friday, August 2nd or Monday, August 5th, 2019, and that it contained information on a huge hydrology change.

Greg Halling with Halling Engineering addressed the Commission and stated that he has reviewed the City Engineer's comments regarding grading the trail and there will not be a problem complying with 5% grade in the trail area. He also stated that there is an excess soil pile containing black dirt on the proposed park property which the developer would like to utilize in the development. The City Engineer indicated this would be acceptable to the City. Halling also requested that the bump out area adjacent to Lots 1, 2 and 3 not be required to be paved as suggested by City staff, stating that it is additional impervious surface, snow plowing, and maintenance for the City.

There was significant discussion regarding the proposed right-of-way bump out area proposed adjacent to Lots 1, 2 and 3 and whether it should be paved or not paved, and the pros and cons were discussed.

Developer Bernard Mahowald addressed the Commission. He stated that housing costs have become unaffordable and are beyond what many people can afford. He therefore requested that the cul-de-sac bump out area not be required to be paved due to the additional costs associated with it.

Commissioner Priebe stated that he wants to see the hydrology study and the results of it before he makes a recommendation regarding the plat, and he suggested a special Planning Commission meeting be held after the City Engineer has reviewed the report and before the request is scheduled for action by the City Council. Administrator Terry reviewed the time frames associated with required City action on the development application, noting that the City is nearing the 120 day deadline allowed under state statute.

Mr. Mahowald questioned why the development needed to be held up based on the hydrology study. Commissioner Priebe stated that he is concerned about how the proposed development may affect drainage on Mr. Chlan's property.

City Attorney McDowell Poehler advised the Commission that per the City's Ordinances, the Commission is required to make recommendations based on the material that they have at this time. If the recommendation of the City Engineer is that the development will have little effect on drainage in the area, and complies with City code, there is little discretion that the Commission has in making a recommendation. Administrator Terry stated that if additional information is available to the City Council before the City Council considers the application, the City Council would consider that information also.

The Commission continued to discuss the recommendation to pave the cul-de-sac bump out area. Priebe, Kruckman and Hanson stated that it should be paved, while Smith stated it should not be paved.

A motion was made by Smith and seconded by Kruckman to recommend approval of the request for rezoning and preliminary plat approval, including approval a variance relating to the right-of-way width and cul-de-sac length for Sylvester's Court, with a recommendation to not require paving of the cul-de-sac bump out area, and recommending that staff and city council review hydrology study when and if it becomes available.

Motion failed: (2-2).

It was then moved by Smith and seconded by Kruckman to recommend approval of the request to rezone a portion of the property from UR Urban Reserve to R1 Suburban Single Family Residential, for the following reasons:

- 1) The proposed action has been considered in relation to the specific policies and provisions of, and has been found to be consistent with, the official City Comprehensive Plan.
- 2) The proposed use is compatible with present and future land uses of the area.
- 3) The proposed use of the property complies with performance standards contained in the City's Zoning & Subdivision Ordinances.
- 4) The proposed use of the property as single-family residential can be accommodated with existing public services and will not overburden the City's service capacity.
- 5) Traffic generation by the proposed use is within capabilities of streets serving the property.

Included in the motion was a recommendation for approval of the request for preliminary plat approval of Sylvesters Meadows, containing nine single-family residential lots and two outlots, for the following reasons:

- 1) The proposed use of the property meets the intent of the guided land use for the area.
- 2) The proposed plat complies with the purposes of the Zoning Ordinance and Comprehensive Plan.

And recommending the preliminary plat shall be subject to the following conditions:

- 1) The developer shall comply with the recommendations of the City Engineer and Public Works Director.
- 2) The developer must enter into a development contract with the City of Elko New Market at the time of final plat approval.
- 3) The construction plans shall be amended to include a standby generator to service the proposed sanitary sewer lift station.
- 4) City staff and the City Council shall review the hydrology study planned to be submitted by Mr. Dan Chlan and shall consider its results when making the final decision on the application for plat approval.

And included in the motion was a recommendation for approval of the request for variance from the required 60' road right of way width to allow a 50' road right-of-way width, and a variance from the maximum 500' cul-de-sac length to allow a 650' cul-de-sac length is being approved with the following findings:

- 1) There are special circumstances affecting the property such that the application of the provisions of the Subdivision Ordinance would mean that the property cannot be put to a reasonable use.
- 2) Granting the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the vicinity in which the development site is situated.
- 3) Granting the variance will not increase the flood hazard or flood damage potential.
- 4) Granting the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire or endanger public safety.
- 5) The variances are to correct inequities resulting from a physical hardship including wetlands.
- 6) The hardship is not a result of an action by the owner, applicant or any agent thereof.
- 7) That the requested variance is the minimum action required to eliminate the hardship.
- 8) The variance does not involve a use which is not allowed within the respective zoning district.

And noting that:

- 1) City staff supports the developer's request to retain ownership of the wetland area on proposed Outlot B.
- 2) A vote was taken by the Planning Commission on the requirement to pave the cul-de-sac bump out area adjacent to proposed Lots 1, 2 and 3 and there was a 2-2 tie vote on the matter.

Motion carried: (4-0)

9. MISCELLANEOUS

A. Community Development Updates

Christianson noted that a report containing updates was included in the Planning Commission Packet. Tom Terry announced that Haley Sevensing has been hired by the City as a Planner. Chairman Smith asked about the Christmas Pines development. City Engineer Revering updated the Commission regarding the status of construction at Boulder Heights and Christmas Pines.

B. Planning Commission Questions and Comments

There were no comments or questions from the Planning Commission.

10. ADJOURNMENT

A motion was made by Kruckman and seconded by Hanson to adjourn the meeting at 9:30 p.m. Motion carried: (4-0).

Submitted by:



Renee Christianson
Community Development Specialist

DRAFT

ENM Parks Commission Update

July 31, 2019

1. The August Parks Commission Meeting will be held on Tuesday, August 6th beginning at 4 PM at ENM City Hall – a week earlier than usual. After the meeting, we will reassemble over at Windrose Park at 5:30 PM for a brief groundbreaking for the forthcoming Disc Golf Course. Leveiska Disc Golf will bring a practice “hole” for everyone to try out. If Cale Leveiska can get free from a construction project in Rochester, then he’ll be at the groundbreaking to show us how it’s done – Cale is ranked 8th in the World as a professional. Of course, everyone will get a chance to try it! Windrose 8th Addition residents have been invited, too.
2. After “kicking off” National Night Out”, as we traditionally do, the Parks Commission will be sponsoring Dazzling Dave, the Yo-Yo Master, who will go around to the various neighborhood parties with the Police Department.
3. As you know from our February meeting, I applied for SMSC Trail Grant funds, with the assistance of Bolton-Menk, Inc, for a segment to connect the Windrose 8th Addition to the Woodcrest Addition, so that Woodcrest residents could have better access to the Pete’s Hill “Lookout” and trail and the Windrose 8th residents could have access to Woodcrest Park. On April 10th, I received word from the SMSC that the City was awarded the grant of \$18,224 for the project, which is 80% of the cost. The Donation Agreement was approved by the City Council on June 27th and a signed version was received by the City on Thursday, July 25th. The next step on the project, which is already underway, will be developing plans and specs for bidding late this Summer, early Fall.
4. The Rowena Pond Park RePurposing Master Plan is now underway! The Public Works Department has completed the first phase by relocating the playground equipment. Now that the playground equipment has been moved, the next step will be to move the baseball field. I met with the New Market Baseball Association earlier this month to review the details with them. Along with City Engineer, I will go over resolution of their current drainage problems and possible options with the 3 neighbors most directly affected by the project in August. I am looking at a Twins Community Fund grant to see if the upgrade T-Ball Field qualifies for funding.
5. Soccer season is underway! Coaches meeting was July 24th at 6:30 at EagleView. On Monday, July 29th, New Prague Community Ed lined the

fields and, with the help of the PW crew, set up the goals for practice starting on Tuesday, July 30th. First games are on Tuesday, August 6th. The City, as per agreement, will do the mowing and lining on Monday and Wednesday, throughout the season, which ends on Thursday, September 5th. As you may recall, there's a "Soccer Jamboree" with all teams participating in a tournament at the end of the season – it will be held on Saturday, September 7th. This year, registrations are up significantly over the past couple of years – I'll have stats in the August Update. Again, thanks to the PW crew for their work in making the soccer program a success!

6. June also begins the City's annual budget process. On Wednesday, June 26th, I reviewed the 2020 Budget with Finance Staff. Overall, in keeping with the parameters set by the Council, the budget will remain about the same as 2019 with a slight .2% increase over 2019.
7. As per the direction of the Parks Commission at the July meeting, I am working on an update of the Parks CIP. In working with the City Accountant, Kellie Stewart, on this project – as of the end of June 2019, the Parks Commission has about \$165,664 available for projects. That number will likely grow as there are a couple of projects starting soon where that will add more Park Dedication dollars.
8. Vandalism to the slides at Wagner Park occurred around Thursday, July 17th – some inappropriate messages were etched into both slides. They were removed by the PW Department before the weekend. Fortunately, it was an easy fix this time.
9. ASCAP, SESAC and BMI, the main three music performance licensors, are in the news again. Cities must obtain licenses from these 2 licensors to cover any music "performances" on City property, including live performances at City parks, music played in any City buildings, or even "piped" over City phones. Due to the expense, the City doesn't do any live music performances for Summer and Winter events. Interestingly, the Department of Justice is looking into the existing Consent Decree make any sense in terms of competition in the industry. I provided a few comments to the LMC on the matter noting that the expense of these licenses may serve to prevent musicians from being heard, rather than making sure that they are paid for their music. The same goes for the increasing cost of showing movies, which is now to \$285 per showing, and becoming cost prohibitive.

10. Jessica Davidson, with help from Stephanie Fredrickson, did a great job of planning the Summer Events for 2019! We have not had lot of luck with the weather this Summer, but with the exception of Mad Science, which had attendance of about 25 due to a downpour a ½ hour before it started – all events were 85 or more people. Hopefully, we'll have some nice weather for our last 2 events – a movie and the inflatable waterslides on August 1st and August 8th!
11. The Engineered Wood Fiber was ordered from Minnesota/Wisconsin Playground for \$1,799 delivered, which is a savings of about \$375 over 2018. A delivery date is being set for the first full week of August. Once received, the parks will be “freshened up” with new fiber.
12. As you recall from the June Parks Commission Meeting, a Preliminary Construction meeting was held on Monday, May 13th. As I reported at the May 14th Parks Commission Meeting, we came up with a better layout that'll require less brush cutting and mats will be used, instead of concrete pads, for the “tee” areas. The company and I are working on a revised schedule for the project for later this Summer and it will be tentatively done in late August. I will be letting the neighborhood know the schedule via Facebook, as soon as it's firm.
13. The August Parks Commission Agenda will be “light” due to the groundbreaking with updates on our Capital projects this year and a discussion of the 5-year CIP being the main items. Watch for the Agenda Packet on or about August 1st!
14. See you on Tuesday, August 6th @ 4 PM @ ENM City Hall for our August Parks Commission Meeting! We'll move over to Windrose Park for the groundbreaking of the Disc Golf Course and Demo!