



AGENDA
REGULAR MEETING OF THE CITY COUNCIL OF
THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, AUGUST 22, 2023
7 P.M. IN THE COUNCIL CHAMBERS

Navigable Agenda

1. CALL TO ORDER AND ROLL CALL

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the Regular City Council Meeting on August 8, 2023

B. Minutes of the City Council Work Session on August 15, 2023

3. ADOPT THE AGENDA *(No item of business shall be considered unless it appears on the agenda for the meeting. The Mayor or Councilmembers may add items to the agenda prior to adoption of the agenda.)*

4. CONSENT AGENDA *(Those items listed under Consent Agenda are considered routine by the City Council and will be acted upon by one motion under this agenda item. There will be no separate discussion of these items, unless the Mayor or a Councilmember so requests, in which event, the item will be removed from the consent agenda and considered under New Business.)*

A. Resolution authorizing a special event application for Carbone's Pizzeria & Pub

B. Resolution approving a ditch repair agreement with Vadnais Lake Area Water Management Organization

C. Resolution declaring costs to be assessed, ordering preparation of an assessment roll and setting public hearing on the assessment roll for the 2022 South Shore Boulevard Sanitary Sewer Extension Project

D. Resolution renewing a lease agreement with White Bear Dance Center at 2462 County Road F E

E. Resolution approving an extension for a conditional use permit and two variances for 4465 White Bear Parkway

F. Joint resolution clarifying the legal description of real property to be detached from White Bear Lake and annexed into Mahtomedi

G. Resolution authorizing issuance of a massage therapy establishment license to Salons By JC

5. VISITORS AND PRESENTATIONS

A. Employee Recognition – Chief of Police

B. Prosecution Services Update

C. Community Development Department Bi-annual Report

6. PUBLIC HEARINGS

None

7. UNFINISHED BUSINESS

A. Second reading of an ordinance amending Chapter 1104 – Tobacco and Related Products

B. Second reading of an ordinance requiring licensing and imposing regulations on the sale of edible cannabinoid products

8. NEW BUSINESS

A. White Bear Area Food Shelf Lease Agreement

- B. First reading of an ordinance amending the Fee Schedule
- C. First reading of an ordinance prohibiting the use of cannabis products in public places

9. DISCUSSION

None

10. COMMUNICATIONS FROM THE CITY MANAGER

11. ADJOURNMENT



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF WHITE BEAR LAKE, MINNESOTA
TUESDAY, AUGUST 8, 2023
7 P.M. IN THE COUNCIL CHAMBERS**

1. CALL TO ORDER AND ROLL CALL

Mayor Dan Louismet called the meeting to order at 7 p.m. The City Clerk took attendance for Councilmembers Kevin Edberg, Steve Engstran, Heidi Hughes, Dan Jones and Bill Walsh. Staff in attendance were City Manager Lindy Crawford, Police Chief Julie Swanson, Fire Chief Greg Peterson, Community Development Director Jason Lindahl, City Clerk Caley Longendyke, and City Attorney Troy Gilchrist.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

A. Minutes of the Regular City Council Meeting on July 25, 2023

It was moved by Councilmember **Jones**, seconded by Councilmember **Hughes**, to approve the minutes. Motion carried unanimously.

3. APPROVAL OF THE AGENDA

It was moved by Councilmember **Edberg**, seconded by Councilmember **Engstran**, to approve the agenda. Motion carried unanimously.

4. CONSENT AGENDA

- A. Accept minutes: May Park Advisory Commission, June White Bear Lake Conservation District, June Environmental Advisory Committee, July Planning Commission
- B. Resolution approving polling places for the 2024 Presidential Primary Election **Res. No. 13221**
- C. Resolution authorizing renewal of Building and Rental Housing Inspection Services Agreement with the City of Mahtomedi **Res. No. 13222**
- D. Resolution authorizing renewal of Code Enforcement Services Agreement with the City of Mahtomedi **Res. No. 13223**
- E. Resolution granting preliminary and final plat approvals for the White Bear Lake Civic Campus addition **Res. No. 13224**
- F. Resolution granting a setback variance for 4041 Highway 61 **Res. No. 13225**
- G. Resolution granting a height variance for 1876 5th Street **Res. No. 13226**
- H. Resolution authorizing renewal of Fire Department Clinical Site Agreement with Century College **Res. No. 13227**
- I. Resolution approving a temporary liquor license for Church of St. Mary of the Lake **Res. No. 13228**

It was moved by Councilmember **Walsh**, seconded by Councilmember **Hughes**, to approve the consent agenda. Motion carried unanimously.

5. VISITORS AND PRESENTATIONS

A. Employee Recognition / Swear-in Police Officer

Police Chief Swanson recognized Jim Kvitrud for his 32 years of service as a police reserve officer and community service officer. Lorin Edmond was given the Oath of Service and sworn in as the newest White Bear Lake Police Officer.

B. Public Safety Employee Recognition

Police Chief Swanson and Fire Chief Peterson recognized public safety employees for their heroic efforts when Officer Ryan Sheak was shot multiple times during a call on January 24, 2023. The Life Saving Award was awarded to the following employees: Fire Captain Matt Stallings, Fire Lieutenant Steve Vobr, Firefighter/Paramedic Josh Cermak, Firefighter/Paramedic Drew Gadbois, Firefighter/Paramedic Jeremy Mach, Firefighter/Paramedic Mitch Brown and Firefighter/EMT Ben Ferderer. The Medal of Honor was awarded to Police Sergeant Eric Gadbois, Police Officer Phonvelai Sorensen and Police Officer Connor Dillon. The Medal of Valor was awarded to Police Officer Ryan Sheak.

C. Legislative Update – Senator Gustafson

Senator Heather Gustafson provided a brief update on her work during the 2023 legislative session, and thanked City Manager Crawford for her communication and collaboration. She talked about state funding that will be provided to local public safety departments. She said she kept cities in mind when advocating for local control on bigger legislation, including the cannabis bill. She said she was successful in increasing sales tax for cannabinoid products so local government can recover some associated costs. Mayor Louismet thanked Senator Gustafson for her engagement and staying connected with the City. Councilmember Jones also thanked her for staying connected with the Council. He talked about the License Bureau and asserted that more needs to be done to help fund these services that the City provides on behalf of the State.

6. PUBLIC HEARINGS

A. First reading of an ordinance amending Chapter 1104 – Tobacco and Related Products

City Manager Crawford presented the first reading of an ordinance that would amend City Code Chapter 1104, Tobacco and Related Products. She explained that the City currently doesn't expressly regulate tobacco shops as a separate use in the zoning code and current regulations for tobacco products need to be updated to keep pace with recent changes in both federal and state laws. She referenced the City's active moratorium prohibiting the expansion or establishment of tobacco shops that became effective September 27, 2022, which provided time for staff to study its regulations and propose ordinance amendments, as needed. She highlighted the proposed amendments, which include updated definitions, including Tobacco Products Shop, a limit on the number of licenses for Tobacco Products Shops, updated regulations aligning with federal and state laws and granting Council the authority to impose administrative penalties for violations.

Mayor Louismet opened up the public hearing at 7:43 p.m. There being no comment, the public hearing was closed. Councilmember Hughes questioned why there is a proposed limit on the number of establishments. City Manager Crawford said there typically hasn't been consistency on where or how many tobacco shops have popped up, and said it is just a suggestion for Council to consider. Mayor Louismet reflected on a previous Council discussion during a work session and noted that there was desire to keep public interest in mind and not become a City saturated with one type of a certain business. Councilmember Edberg challenged the limit when considering there are no limits on other types of businesses. He noted he will not be present at the August 22 meeting when Council votes on the ordinance amendment. Councilmember Jones said if a limit is imposed on Tobacco Products Shops, there should be discussion on limiting other types of businesses. Mayor Louismet noted that tobacco can be purchased at gas stations and convenience stores, in addition to the Tobacco Products Shops. In response to councilmembers questioning the limit, City Attorney Troy Gilchrist clarified that the limit pertains only to tobacco products shop where 90% of its sales are predominantly tobacco-related products. Councilmember Hughes asked if there was a limit on the number of liquor stores in the City, and City Manager Crawford confirmed there was no limit. Councilmember Hughes didn't support limiting certain types of business with City ordinances. Councilmember Walsh expressed support for the limit when taking into consideration the community interest and values, and balancing its retail businesses.

A second reading and City Council vote of the ordinance is scheduled for the August 22 regular meeting. Based on the lack of general consensus on suggested modifications, City Manager Crawford said staff doesn't intend to make changes and will bring back the ordinance as presented.

B. First reading of an ordinance requiring licensing and imposing regulations on the sale of edible cannabinoid products

City Manager Crawford summarized a timeline and information on cannabis-related legislation that passed in 2022 and 2023, and the City's active moratorium that prohibits the sale of edible cannabinoid products. Until the Office of Cannabis Management is established and starts licensing businesses selling lower-potency hemp edibles, estimated in March 2025, local government units need to consider whether or not to establish a licensing system for the sale of these products. At the direction of City Council during a work session on June 13, 2023, the City Attorney and staff prepared an ordinance establishing a licensing structure for edible cannabinoid businesses and regulating the sale of edible cannabinoid products or lower-potency hemp edible products until the Office of Cannabis Management takes over licensing of these products. Highlights of the ordinance include definitions, license qualifications, application procedure, product storage requirements, sale restrictions, information on compliance checks and adverse license actions.

Mayor Louismet opened up the public hearing at 7:59 p.m. There being no comment, the public hearing was closed. Councilmember Jones shared his trust in City Staff and the City Attorney for proposed regulations for this complex topic. Councilmember Edberg recalled a provision in state statute limiting the number of businesses. City Manager Crawford clarified that the limit pertains to cannabis retailer businesses—the proposed licensing and regulations is addressing the sale of

lower-potency hemp edibles, or edible cannabinoids. Separately, Councilmember Walsh referred to the PowerPoint slide and questioned why the City would allow two cannabis retailer licenses when the population of White Bear Lake is below 25,000. It is unclear whether the City has to allow two businesses or can limit the number of cannabis businesses to just one, but City Attorney Gilchrist explained that will be clarified in the forthcoming rules and regulations by the Office of Cannabis Management. City Attorney Gilchrist clarified that the Council is only reviewing the sale of lower-potency hemp edibles for the proposed licensing and regulations.

A second reading and City Council vote of the ordinance is scheduled for the August 22 regular meeting.

7. UNFINISHED BUSINESS

Nothing scheduled.

8. NEW BUSINESS

A. First reading of an ordinance amending zoning regulations regarding tobacco and cannabis uses

Community Development Director Lindahl presented the first reading of an ordinance that would amend zoning regulations as it relates to tobacco and cannabis uses. The proposal would create two new uses in the Zoning Code as it relates to Tobacco Products Shops and Cannabis Retailers. The two uses would be assigned to the B-4, General Business District. The Planning Commission held a public hearing and there was no public comment. He mentioned there are currently six establishments that would qualify as a Tobacco Products Shop and without zoning regulations, they have fallen into various zones in the City. When reviewing the 2040 Comprehensive Plan, land uses, and the descriptions of each zoning district, City staff concluded that B-4, General Business District, is the most appropriate district to locate these establishments. Buffers would be applied so that the businesses are not within 1,000 feet of a school or 500 feet of a day care, residential treatment facility or a public park regularly used by minors. The existing six Tobacco Products Shops are currently not in the B-4 zoning district, so they would become legal non-conforming, or “grandfathered”. Sales of the lower-potency hemp edibles at these businesses will also be allowed.

Director Lindahl summarized the review of the Planning Commission, who approved a zoning ordinance that would restrict Tobacco Product Shops, cannabis retailers and lower-potency hemp edibles to the B-4, General Business District (Option A). Staff developed an alternative ordinance amendment for Council to consider (Option B), which proposes a third land use for lower-potency hemp edibles. This would separate the lower-potency hemp edibles from cannabis retail businesses and provides more flexibility on where lower-potency hemp edibles can be sold.

City Attorney Gilchrist provided clarification on the differences between the two proposed amendment options. Councilmember Jones asked staff which version would be easier to manage. City Manager Crawford explained that Option B would be easier to administer and would give more flexibility to certain businesses to sell lower-potency hemp edibles. City Attorney Gilchrist said the zoning amendment and edible cannabinoid licensing structure ordinances are to address the gap between the expiration of the current moratorium on edible

cannabinoids and when the Office of Cannabis Management becomes the regulatory licensing authority. He anticipates the City Council will have to review these areas again. Councilmember Edberg asked why the Central Business District was not considered for an allowable location for a Tobacco Products Shop or a Cannabis Retailer. Director Lindahl clarified that the sale of lower-potency hemp edibles would be allowed in the Central Business District, in Option B, if the business has an on-sale or off-sale liquor license or a tobacco license. It is only Tobacco Products Shops and Cannabis Retailers that would not be allowed in the Central Business District. Councilmember Edberg asked why the City wouldn't allow a cannabis retailer in the Central Business District. Director Lindahl explained that the B-4, General Business District, would allow easier access from higher capacity road for a broader, regional market. He also mentioned comments from Council at a work session to develop regulations similar to tobacco and liquor establishments. Councilmember Hughes expressed support for Option A to better regulate the location where lower-potency hemp edibles are sold.

Councilmember Edberg will not be available for the vote on August 22. Council discussed postponing the second reading and vote from August 22 to September 12. City Attorney Gilchrist recommended the Council provide direction on which proposed zoning amendment to bring forward for a second reading. Councilmember Jones showed support for Option B. Mayor Louismet said Option A may be expanded to the Central Business District. Councilmember Edberg expressed support for separating the regulation of edible cannabinoids from Tobacco Products Shops and Cannabis Retailers. Since there is more consideration to be had, staff will be bringing back the two zoning amendment ordinance options for a second reading.

The second reading of both amendment options and City Council vote is scheduled for the September 12 regular meeting.

B. Review of Burger Bar liquor license violation

City Manager Crawford said the Police Department conducts alcohol compliance checks each year at all licensed business establishments. Burger Bar, located 2125 4th Street, failed two compliance checks within a 12-month period, both for serving alcohol to minor and one of those incidents involving an underage employee serving the alcohol. It has been the practice of the City Council to review the establishment's business license when there are two failed compliance checks within a 12-month period to consider what, if any, action should be taken against its license. Should the Council have the desire to take the same action as it did in 2013 when a different establishment failed two alcohol compliance checks, staff prepared a similar resolution reflecting a 7-day suspension of the liquor license with an effective start date 12 days following the City Council meeting.

Business owner Leonard Pratt, who was notified of the liquor license review and invited to speak to the City Council, shared the corrective course of action being taken to prevent this from happening again, including mandatory alcohol awareness training for all employees and a new alcohol service policy. The plan will be implemented at both Burger Bar and Ingredients Café, both owned by Mr. Pratt.

Mayor Louismet understood that the owners are taking the violations seriously and appreciated

their response plan. However, he felt it would be appropriate to move forward with a 7-day suspension since they failed the two compliance checks. Councilmember Edberg, Councilmember Jones and Councilmember Hughes shared comments agreeing.

It was moved by Councilmember **Jones**, seconded by Councilmember **Engstran**, to approve **Res. No. 13229** authorizing a 7-day suspension of 3.2 on-sale, wine on-sale and Sunday liquor licenses issued to Burger Bar, effective August 20, 2023. Motion carried unanimously.

9. DISCUSSION

Nothing scheduled.

10. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Crawford shared information about the Lakewood Hills All-Abilities Playground ribbon cutting and thanked the Lions Club for their donations and Public Works staff for their hard work. She recognized Lions Club International, GameTime and T.A. Shifsky & Sons, Inc. for their significant contributions. She shared that Administrative Police Captain Dale Hager will be promoted to Chief of Police effective August 28. She shared event information for Fridays with Firefighters and a car seat clinic with Regions Hospital.

11. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember **Edberg**, seconded by Councilmember **Engstran**, to adjourn the regular meeting at 9:02 p.m. Motion carried unanimously.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



**COUNCIL WORK SESSION
MINUTES
6 P.M., TUESDAY, AUGUST 15, 2023
CITY HALL 2nd FLOOR BOARD ROOM**

Mayor Louismet opened the meeting at 6:05 p.m. Councilmembers in attendance included: Kevin Edberg, Steven Engstran, Heidi Hughes and Bill Walsh. Councilmember Dan Jones was absent. Staff members in attendance included: City Manager Lindy Crawford, Assistant City Manager Rick Juba, Finance Director Kerri Kindsvater and Assistant Finance Director Jessica Saari.

1. 2024 Preliminary Budget

City Manager Crawford and Finance Director Kindsvater gave an overview of the draft preliminary 2024 budget for the City's General Fund. In order to reduce a General Fund tax levy increase, the preliminary budget proposes use of \$583,079 of unrestricted surplus fund balance to make up for a proposed deficit between revenues and expenditures. Staff emphasized to Council that utilizing fund balance to subsidize the budget is not ideal nor sustainable, and that the Council will need to decide to either increase taxes further or reduce services to support a balanced budget as soon as the 2025 budget. For reference, the 2023 budget anticipated utilizing unrestricted surplus fund balance to subsidize the budget; however, due to unanticipated permit revenues and a reduction in expenditures, utilizing the funds is not necessary.

Staff recapped the description of fund balance analysis tools used to evaluate the appropriate balances. The first analysis is a recommendation from the state auditor for cities to keep a minimum of five month's operation costs (42%) on hand and accessible to cover unanticipated costs. The fund balance projected for December 31, 2023 covers 40.27% of the 2024 expenditures. Although the percentage is just below the state auditor's recommended amount, it complies with the Council policy requiring the fund balance to be 35-50% of expenditures anticipated for the following year. The second analysis ensures funds are available to pay claims in the first half of each year since the City receives the first payments of its largest revenue sources in June or July. The city's fund balance is 62.98% of the projected tax and intergovernmental revenue.

Staff highlighted significant revenue changes including continued reduction of the Local Government Aid (LGA) assigned to the General Fund to reduce the reliance on this funding source for operations. Council has supported this strategy in recent budgets as the State Legislature reduced the City's LGA allocation each year. This practice allocates the LGA funds to Capital Project funds and reduces the need to support those fund operations with a tax levy. The 2024 budget continued that reduction process based on Council feedback and support at the April 2023 work session.

Significant changes to expenditures in 2024 include salary adjustments per the City's Classification and Compensation plan adopted in 2022 as well as settled union contracts, addition of two full-time firefighter/paramedics, addition of a facility maintenance position, Emerald Ash Borer tree removal

charges, Zoning Ordinance update project, operating technology cost, and facility maintenance charges.

A significant change to both revenues and expenditures is moving the Ambulance Fund operations to the 2024 General Fund Budget as a stand-alone department. This move is based on staff recommendation and Council consensus at the April 2023 work session. The revenues include a 3% rate increase. Expenditures are operating expenditures only; the Equipment Acquisition Fund will account for ambulance capital expenditures similar to all other General Fund departments. The General Fund will receive a transfer of the Ambulance Fund Balance in the beginning of 2024 to close the fund.

During the 2023 State legislative session, the Legislature allocated a one-time payment of Public Safety LGA to White Bear Lake. The funding is restricted for use on recruitment, retention and equipment expenditures for Police and Fire Departments. Staff shared a recommendation of potential expenditures created by the Police and Fire Chiefs and the City Manager. The proposed uses includes both operating and capital expenditures. Staff stated that if this proposal were to move forward as presented, the aid would reduce the amount of unrestricted surplus fund balance needed to support the 2024 budget from \$583,079 to \$313,579. Staff reminded Council that using the Public Safety LGA funds to offset operating expenditures in the 2024 budget does reduce the deficit in the 2024 budget; however, the 2025 budget will need to include those expenditures resulting in an increase to the tax levy needed to support future budgets.

The Mayor and Councilmembers discussed the following topics included in the proposed 2024 budget that they have either formally adopted or supported at work session meetings:

- With Council's adoption of the City's Classification and Compensation Plan in 2022, staff wages are set for 2024 with the exception of the non-bargaining staff cost of living adjustment.
- Approval of the Public Safety Facility project obligates the City to make debt service payments to pay the construction costs.
- Recognition of the need to move the Ambulance Fund from an Enterprise Fund to the General Fund to support operations as they continue to add Firefighter/Paramedic staff to respond to calls for service.

Council provided further discussion and feedback on the following topics:

- Retaining some or all of the \$248,000 of LGA in the General Fund budget instead of transferring the aid to the Equipment Acquisition or Municipal Building Funds to support capital projects and expenditures. Council shared that they do not consider capital expenditures fixed costs that the City is obligated to pay and suggests holding the LGA revenue amount in the General Fund for 2024 will reduce the budget deficit and the use of unrestricted surplus fund balance to support the budget.
- A reflection on the effect of allocating some General Fund staff costs to the Enterprise Funds have over time.
- The need and timing of adding various staff positions.
- The use of Public Safety LGA to fund staff positions and operating expenditures in the Police and Fire Departments.

- An interest in holding the property tax levy as low as possible in 2024, with the understanding that future tax levy increases could have a more significant impact on property owners as operating expenditures paid for by government aid in the current year have tax support in future years.

Staff will continue to work on the draft preliminary budget and tax levy for presentation at the September 12 regular City Council meeting. The preliminary tax levy must be set no later than the September 26 regular City Council meeting.

The meeting adjourned at 9:05 PM.



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Lindy Crawford, City Manager
From: Caley Longendyke, City Clerk
Date: August 22, 2023
Subject: **Special Event Application for Carbone's Pizzeria & Pub – Annual Outdoor Party**

SUMMARY

The City Council will consider adopting a resolution approving a single event extension to an on-sale liquor license for Carbone's Pizzeria & Pub (Carbone's) for its annual outdoor party.

BACKGROUND INFORMATION

The owner of Carbone's, Steve Boleen, is planning the 7th annual outdoor celebration on Saturday, September 9, 2023. Carbone's has permission from the owner of the parking lot, Union Park Management, for additional external seating and for a band. Carbone's has also talked to neighboring businesses in the complex, most of which are closed in the evening.

Carbone's is requesting permission for the band to continue playing outdoors until 11 p.m., which extends one hour beyond the City's noise ordinance. Given the restaurant's location and no calls of concerns related to this event in previous years, City staff is willing to consider this special request with the caveat that if a complaint call is received after 10 p.m., the band will be asked to conclude its performance.

Alcohol extension license service outside of the designated restaurant area requires the City Council's approval. Carbone's is seeking approval for a single event extension to their on-sale liquor license as follows:

Boleen Enterprises
 Carbone's Pizzeria & Pub
 1350 Highway 96, Suite 7
 White Bear Lake, MN 55110
 3-11 p.m., Saturday, September 9, 2023
 Parking lot, inside the confines of fenced area

RECOMMENDATION

Staff recommends Council adopt the attached resolution with conditions as presented.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING A SPECIAL EVENT FOR CARBONE'S
PIZZERIA & PUB ON SEPTEMBER 9, 2023 IN WHITE BEAR LAKE**

WHEREAS, a special event application has been submitted by Carbone's Pizzeria & Pub to host their annual outdoor celebration from 3-11 p.m. on Saturday, September 9, 2023 at their location at 1350 Highway 96, Suite 7; and

WHEREAS, the request entails extension of the on-sale liquor license to outside the building within a fenced area and amplified music one hour past the City's noise ordinance; and

WHEREAS, given the restaurant's location and no calls of concerns related to this event in previous years, City staff is willing to consider the special request to extend music to 11 p.m., on the condition there are no complaints; and

WHEREAS, this annual event will be similar to previous years, and its past events have not had any issues as it relates to the liquor premises extension and noise past 10 p.m.

NOW THEREFORE, BE IT RESOLVED that the White Bear Lake City Council approves the special event application to extend the premises of the on-sale liquor license to the parking lot outside the of Carbone's on 1350 Highway 96, Suite 7, on Saturday, September 9, 2023 from 3-11 p.m., subject to the following conditions:

1. Approval from the owner of the parking lot;
2. Music performance concludes at 11 p.m., but any calls of concern after 10 p.m. will result in immediate commencement of outdoor music;
3. Erection of approved fencing in a location approved by City staff, said fence must restrict the space in which liquor may be consumed;
4. Security will be assigned to entrance and wristbands provided to those of legal age to consume alcohol, and
5. Proof of general and liquor liability insurance naming the City as an additional insured up to municipal liability limits.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
Engineering Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Connie Taillon, Environmental Specialist / Water Resources Engineer
Date: August 22, 2023
Subject: **Ditch Repair Agreement for County Ditch 13**

SUMMARY

The City Council will consider adopting a resolution approving a Ditch Repair Agreement with Vadnais Lake Area Water Management Organization (VLAWMO) to transfer maintenance responsibility of County Ditch 13 to the City.

BACKGROUND INFORMATION

County Ditch 13 was originally constructed as an open drainage ditch by Ramsey County in the 1910's as a tributary to County Ditch 14 located in White Bear Township and the City of Vadnais Heights. In 1980, the City of White Bear Lake secured an easement from Ramsey County over County Ditch 13 and constructed a storm sewer system to accommodate residential development. County Ditch 13, which runs south from 5th Street to the 96-inch storm sewer outfall at Whitaker Pond, functions solely as a storm sewer which the City has maintained since 1980.

In 1986 Ramsey County transferred its rights and responsibilities of County Ditch 13 to VLAWMO together with County Ditch 14. VLAWMO manages this ditch system pursuant to its authority under Minn. Stat. §§ 103B.201-103B.253, not Minn. Stat., Chap. 103E, as provided in Minn. Stat. § 103E.812, subd. 8 and VLAWMO's joint powers agreement. In 2018, VLAWMO hired Houston Engineering, Inc. to prepare a repair report to help VLAWMO identify and plan for maintenance and repair projects on the ditch system. Because VLAWMO does not have the capacity to maintain storm sewer, and the City has historically maintained the County Ditch 13 storm sewer, a Ditch Repair Agreement was drafted to formally transfer ongoing maintenance responsibility of County Ditch 13 to the City.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution approving a Ditch Repair Agreement with Vadnais Lake Area Water Management Organization to transfer maintenance responsibility of County Ditch 13 to the City.

ATTACHMENTS

Resolution

RESOLUTION NO.

RESOLUTION APPROVING A DITCH REPAIR AGREEMENT WITH VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION TO TRANSFER MAINTENANCE RESPONSIBILITY OF COUNTY DITCH 13 TO THE CITY

WHEREAS, Ramsey County (“County”) established County Ditch 13 (“Ditch”) in the 1910’s as an open drainage ditch; and

WHEREAS, In 1980, the City secured an easement from the County over the Ditch route and constructed a storm sewer system; and

WHEREAS, In 1986 the County transferred its rights and responsibilities to the Ditch to VLAWMO together with County Ditch 14 (collectively, the “Ditch System”); and

WHEREAS, VLAWMO manages the Ditch System pursuant to its authority under Minn. Stat. §§ 103B.201-103B.253, not Minn. Stat., Chap. 103E, as provided in Minn. Stat. § 103E.812, subd. 8 and VLAWMO’s joint powers agreement; and

WHEREAS, In 2018, VLAWMO hired Houston Engineering, Inc. to prepare a repair report to help VLAWMO identify and plan for maintenance and repair projects on the Ditch System; and

WHEREAS, the Ditch functions solely through the storm sewer system installed by the City and the City has maintained the Ditch since 1980; and

WHEREAS, VLAWMO does not maintain storm sewer systems and the parties agree the City is in the better position to assume the on-going maintenance responsibility for the Ditch as it is the City’s storm sewer system.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that:

1. The Ditch Repair Agreement with Vadnais Lake Area Water Management Organization to transfer maintenance responsibility of County Ditch 13 to the City is hereby approved.

2. The Mayor and City Manager are authorized to execute the Ditch Repair Agreement on the City’s behalf.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

RESOLUTION NO.

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
Engineering Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Paul Kauppi, Public Works Director/City Engineer
Date: August 22, 2023
Subject: **Ordering Public Hearing on Proposed Special Assessments for Public Improvements on the 2022 South Shore Boulevard Sanitary Sewer Extension Project, City Project No. 22-08**

SUMMARY

The City Council will consider adopting a resolution ordering a public hearing on proposed special assessments for public improvements on the 2022 South Shore Boulevard Sanitary Sewer Extension Project, City Project Number 22-08.

BACKGROUND INFORMATION

The South Shore Boulevard Sanitary Sewer Extension Project is part of a joint construction project with Ramsey County to reconstruct South Shore Boulevard and extend the trail around White Bear Lake. This joint improvement project includes extending sanitary sewer to serve properties that are not currently connected to the City's municipal sanitary sewer system.

The Engineering Department is reviewing the project costs and preparing the final assessment roll for City Council consideration. The resolution, if adopted, will schedule a public hearing on the final assessment roll for South Shore Boulevard for October 24, 2023. The Engineering Department will ensure that all property owners included in this project are properly notified of the October 24 public hearing.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution ordering the public hearing.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION DECLARING COSTS TO BE ASSESSED AND
ORDERING PREPARATION OF PROPOSED ASSESSMENT ROLL AND
SETTING HEARING ON A PROPOSED ASSESSMENT ROLL FOR
THE 2022 SOUTH SHORE BOULEVARD SANITARY SEWER EXTENSION PROJECT
CITY PROJECT NO. 22-08**

WHEREAS, a contract has been let and the estimated costs are being determined for the 2022 South Shore Boulevard Sanitary Sewer Extension Project, the improvement of South Shore Boulevard between McKnight Road and the City's eastern boundary and the estimated contract price for such improvement is \$144,614, and the expenses incurred or to be incurred in the making of such improvement amount to \$26,030, so that the total cost of the improvement will be \$170,644; and

WHEREAS, upon completion of the proposed assessment roll, the City Council desires to hold a public hearing on the proposed improvement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that:

1. The portion of the cost of such improvement to be paid by the City is estimated to be \$27,644, the portion of the cost to be assessed against benefited property owners is declared to be \$143,000.
2. Assessments shall be payable in annual installments extending over a period of fifteen (15) years for residential properties, the first of the installments to be payable (on or before the first Monday in January, 2024) or (with the 2024 Property Taxes), and shall bear interest at the rate of 5.72% per annum from the date of the adoption of the final assessment resolution. To each subsequent installment when amount due shall be added interest for one year on all unpaid installments.
3. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay the whole or a portion of the assessment on such property, to the City of White Bear Lake, except that no interest shall be charged if the entire assessment is paid within thirty (30) days from the adoption of the assessment. An owner may at any time thereafter, pay to the Ramsey County Auditor the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the succeeding year.
4. The City Clerk, with the assistance of the City Engineer, shall forthwith calculate the proper amount to be specially assessed for such improvement against every

RESOLUTION NO.

assessable lot, piece or parcel of land within the district affected, without regard to cash valuation, as provided by law, and the City Engineer shall file a copy of such proposed assessment in their office for public inspection.

5. The Clerk, shall upon completion of such proposed assessment, notify the Council thereof.
6. A hearing shall be held at 7:00 p.m. on Tuesday, October 24, 2023 in the White Bear Lake City Hall located at 4701 Highway 61, White Bear Lake, MN 55110 to pass upon such proposed assessment. All persons owning property affected by such improvement will be given an opportunity to be heard with reference to such assessment. Please find detailed meeting information on the City's website at www.whitebearlake.org or call the City Clerk at 651-429-8508 to learn how to attend the public hearing.
7. The City Engineer is hereby directed to cause a notice of the hearing on the proposed assessment to be published once in the official newspaper at least two weeks prior to the hearing, and the City Engineer shall state in the notice the total cost of the improvement. The City Engineer shall also cause mailed notice to be given to the owner of each parcel described in the assessment roll not less than two weeks prior to the hearing.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Lindy Crawford, City Manager
From: Rick Juba, Assistant City Manager
Date: August 22, 2023
Subject: **White Bear Dance Center Lease Renewal**

SUMMARY

The City Council will consider adopting a resolution authorizing the Mayor and City Manager to execute a lease agreement renewal for White Bear Dance Center at 2462 County Road F E.

BACKGROUND INFORMATION

White Bear Dance Center has been leasing space from the City at the Bellaire Center for several years. The lease is typically renewed in two year increments. Staff and the owners of the White Bear Dance Center have negotiated a new two year lease which starts at \$10.45 per square foot which is a 3% increase from their existing lease and then escalates an additional 3% in year two.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution authorizing the Mayor and City Manager to enter into a lease agreement renewal with the White Bear Dance Center at 2462 County Road F E.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION RENEWING A LEASE AGREEMENT WITH
WHITE BEAR DANCE CENTER**

WHEREAS, the City owns commercial property at 2462 County Road F E; and

WHEREAS, the White Bear Dance Center has leased this space for several years and proposes to continue to do so; and

NOW, THEREFORE, BE IT RESOLVED, be it resolved, that the City Council of the City of White Bear Lake, that a lease between the White Bear Dance Center and the City of White Bear Lake shall be approved with the following conditions:

Term: October 1, 2023 - September 30, 2025

Effective Date: October 1, 2023

Base Rent: \$10.45 per square foot with credit for building improvements.
3% increase to base rent per year of the agreement.
Paid October - June
October 1, 2023 - September 30, 2024 - \$6,365.40
October 1, 2024 - September 30, 2025 - \$6,556.36

Utilities: Paid by White Bear Dance Center

BE IT FURTHER RESOLVED, that the Mayor and City Manager are authorized and hereby directed to execute said lease on behalf of the City.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Shea Lawrence, Planning Technician
Date: August 22, 2023
Subject: **AALFA Family Clinic Extension / 4465 White Bear Parkway / Case No. 04-18-Sa & 22-14 Ve**

SUMMARY

The City Council will consider adopting a resolution approving a one-year extension to a previously approved conditional use permit amendment and two variances for the property located at 4465 White Bear Parkway.

BACKGROUND INFORMATION

The Planning Commission heard the case on September 26, 2022. The applicant was seeking a conditional use permit amendment and two variances in order to construct a building addition and expand the existing parking lot. Site plan approval is required in both the Diversified Business District and the Shoreland Overlay District for construction or land alterations. On a 7-0 vote, the Planning Commission voted to recommend approval of the request. The item was approved by City Council on October 11, 2022 by a vote of 5-0.

ANALYSIS

On June 28, 2023 the applicant at 4465 White Bear Parkway, AALFA Family Clinic, submitted a request seeking a one year extension, citing financial reasons. Per condition three of the original resolution of approval, the applicant was required to file a certified copy of the signed resolution with the County Recorder for the conditional use permit to become effective. The applicant completed the recording with Ramsey County in November of 2022. The request is to extend the resolution of approval one year from the original expiration date to October 11, 2024.

Per code section 1301.050 Subd. 4. a conditional use permit becomes null and void if the within one year of granting the conditional use permit, it has not been completed or utilized unless the applicant files for an extension at least 30 days before the expiration of the original conditional use permit. The same procedure is required for a variance extension per code section 1301.060. Subd 3. The original conditional use permit and variances for this property are due to expire on October 11, 2023. The applicant submitted an application for extension on June 28, 2023, more than 30 days before the expiration date.

RECOMMENDATIONS

Staff recommends the City Council adopt the attached resolution granting a one year extension of the conditional use permit and variances previously approved through Resolution 13066 for the property at 4465 White Bear Parkway.

ATTACHMENTS

Resolution
Zoning Location Map
Applicant's Narrative and Site Plan
Resolution 13066

RESOLUTION NO.

**RESOLUTION APPROVING A TIME EXTENSION FOR
A CONDITIONAL USE PERMIT AMENDMENT AND TWO VARIANCES FOR
4465 WHITE BEAR PARKWAY WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, AALFA Family Clinic (04-18-Sa & 22-14-Ve) has requested a conditional use permit amendment and two variances at the following location:

LEGAL DESCRIPTION: South 151.56 feet of Lot 2, Block 1 of White Bear Gateway Business Park, Ramsey County, MN. (PID #: 213022110010)

WHEREAS, the applicant seeks a one-year extension (until October 11, 2024) for the approvals granted through Resolution 13066 as detailed below:

A resolution approving a conditional use permit amendment for site plan approval in both the DBD zoning district, per code section 1303.225, Subd.4.i, and the Shoreland Overlay district, per 1303.230, Subd.6, and two variances: a 4.6 foot variance from the 10 foot setback for hard-surface from the north and south side lot lines, per 1303.225, Subd.6.e, and a variance from the 30% impervious area limitation to allow 69% impervious, per 1303.230, Subd.5.a.5, and

WHEREAS, the Planning Commission has reviewed the original application on September 26, 2022 and recommended approval by the City Council; and

WHEREAS, the City Council of the City of White Bear Lake reviewed the findings and recommendation of the Planning Commission and voted to approve the original application on October 11, 2022;

WHEREAS, the City Council has considered the effects of the proposed extension upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding area;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota that the City Council approves a one year extension of the conditional use permit and variances approved through Resolution 13066 for the property at 4465 White Bear Parkway until October 11, 2024, subject to the terms and conditions in the original approval.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

RESOLUTION NO.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office.
I have read and agree to the conditions of this resolution as outlined above.

Applicant's Signature

Date



City of
White Bear Lake
Planning & Zoning
651-429-8561

CASE NO. : Case No. 04-18-Sa & 22-14 Ve

CASE NAME : AALFA Family Clinic – Time Extension

DATE : 08-22-2023

AAALFA CLINIC is currently holding a permit for clinic building.

We are requesting a one year extension in order to accumulate the Funds we will need for the project. Our intention is to complete the project in Full in 2024.

RESOLUTION NO. 13066

RESOLUTION GRANTING A CONDITIONAL USE PERMIT AMENDMENT AND TWO VARIANCES FOR 4465 WHITE BEAR PARKWAY WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA

WHEREAS, Dr. Paul Spencer and AALFA Clinic (Case No. 04-18-Sa& 22-14-V) have requested a conditional use permit amendment for site plan approval in both the DBD zoning district, per code section 1303.225, Subd.4.i, and the Shoreland Overlay district, per 1303.230, Subd.6, and two variances: a 4.6 foot variance from the 10 foot setback for hard-surface from the north and south side lot lines, per 1303.225, Subd.6.e, and a variance from the 30% impervious area limitation to allow 69% impervious, per 1303.230, Subd.5.a.5, in order to construct an addition and parking lot at the following location:

LOCATION: 4465 White Bear Parkway

LEGAL DESCRIPTION: South 151.56 feet of Lot 2, Block 1 of White Bear Gateway Business Park, Ramsey County, MN. (PID #: 213022110010)

WHEREAS, the Planning Commission held a public hearing as required by the Zoning Code on September 26, 2022; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed conditional use permit amendment and variances upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that, in relation to the Conditional Use Permit, the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. The traffic generation will be within the capabilities of the streets serving the site.

BE IT FURTHER RESOLVED by the City Council of the City of White Bear Lake, Minnesota that, in relation to the variances, the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variances are in harmony with purposes and intent of the ordinance.
2. The requested variances are consistent with the 2040 Comprehensive Plan.
3. Granting the requested variances will allow the property to be used in a reasonable manner.
4. There are unique circumstances to the property not created by the landowner.

RESOLUTION NO. 13066

5. Granting the requested variances alone will not alter the essential character of the neighborhood.

BE IT FURTHER RESOLVED, that the City Council of the City of White Bear Lake hereby approves the request, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. The Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State, Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. Per Section 1301.060, Subd.3, the variances shall become null and void if the project has not been completed or utilized within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
5. A building permit shall be obtained before any work begins.
6. The applicant shall verify the property lines and have the property pins exposed at the time of inspection.
7. The applicant shall conform with the requirements of the Engineering and Fire Departments.

The foregoing resolution, offered by Councilmember Hughes and supported by Councilmember Jones, was declared carried on the following vote:

Ayes: Edberg, Engstran, Hughes, Jones, Walsh

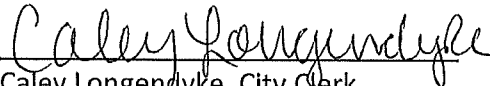
Nays: None

Passed: October 11, 2022



Dan Louismet, Mayor

ATTEST:

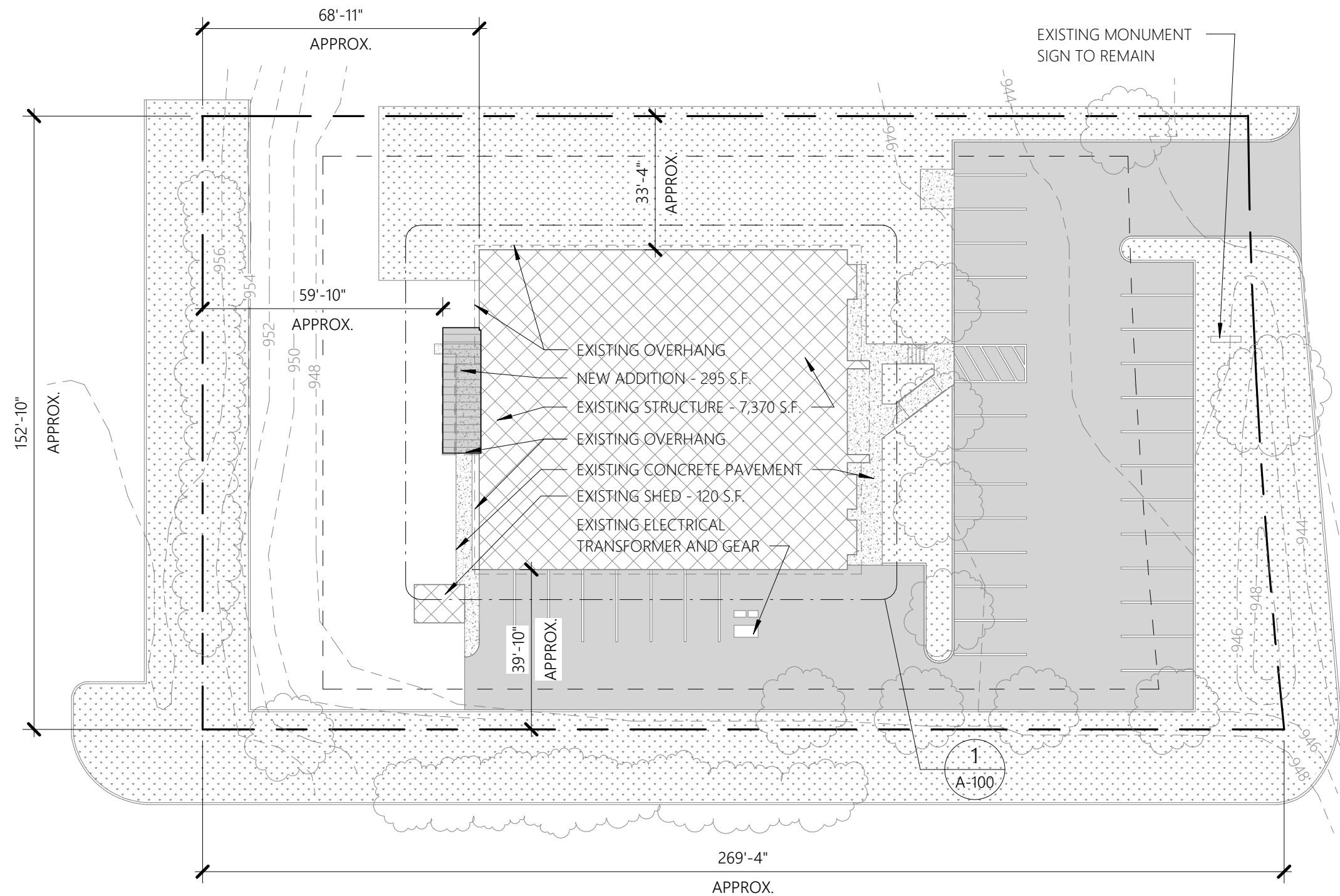


Caley Longendyke, City Clerk










RESOLUTION NO. 13066


Approval is contingent upon execution and return of this document to the City Planning Office.
I have read and agree to the conditions of this resolution as outlined above.

 Mary Spencer 11-7-22
Applicant's Signature Date



SITE LEGEND:

-  EXISTING ONE STORY STRUCTURE TO REMAIN
-  EXISTING ASPHALT PAVEMENT
-  EXISTING LANDSCAPING
-  EXISTING CONCRETE PAVEMENT TO REMAIN
-  NEW ADDITION
-  EXISTING TREE
-  PROPERTY LINE
-  YARD SETBACK
-  REQUIRED SETBACK

 **1** SITE PLAN
1" = 30'-0"

**Aalfa Clinic
BREAK ROOM EXPANSION**

4465 White Bear Pkwy, White Bear Lake, MN 55110

G-101

Kennedy

&

Graven

CHARTERED

Troy J. Gilchrist
150 South Fifth Street
Suite 700
Minneapolis MN 55402
(612) 337-9214 telephone
(612) 337-9310 fax
tgilchrist@kennedy-graven.com
<http://www.kennedy-graven.com>

Also: St. Cloud Office
501 W. Germain Street, Suite 304
St. Cloud, MN 56301
(320) 240-8200 telephone

MEMORANDUM

To: Mayor and City Council
Lindy Crawford, City Manager
City of White Bear Lake

From: Troy Gilchrist, City Attorney

Date: August 16, 2023 (for August 22, 2023 Regular Meeting)

Re: Revised Legal Description for the Previously Approved Concurrent Detachment and Annexation of Property to the City of Mahtomedi

On March 28 2023, the City Council approved Resolution No. 13176 consenting to the City of Mahtomedi's request to annex a 100-foot-wide strip of land consisting of approximately 1.36 acres from the City of White Bear Lake. When Mahtomedi submitted the joint resolution to the Boundary Adjustments Unit to accomplish the annexation, it was discovered that the legal description of the property being annexed was slightly off. The previous description ended at the southern boundary of Wildwood Road, but the state noted it should extend to the north line of the expanded right-of-way. The result is that the annexed area extends across Wildwood Road as shown on the map in the proposed resolution (compare it to the map in the earlier resolution to see the difference).

The proposal is to adopt the enclosed joint resolution pointing out the corrected legal description of the annexed area. Approving the proposed resolution carries out the original intent of the joint resolution adopted in March. As before, if the resolution is approved Mahtomedi will be responsible for filing the resolution with the state to finalize the process.

I will be happy to answer any questions the City Council may have.

CITY OF WHITE BEAR LAKE RESOLUTION NO. 2023-_____

CITY OF MAHTOMEDI RESOLUTION NO. 2023-_____

JOINT RESOLUTION CLARIFYING THE LEGAL DESCRIPTION OF REAL PROPERTY TO BE DETACHED FROM WHITE BEAR LAKE AND ANNEXED INTO MAHTOMEDI PURSUANT TO CITY OF WHITE BEAR LAKE RESOLUTION NUMBER 13176 AND CITY OF MAHTOMEDI RESOLUTION NUMBER 2023-15 AND PURSUANT TO MINN. STAT. § 414.061

WHEREAS, by Resolution Number 13176 adopted on March 28, 2023 by the White Bear Lake City Council, and by Resolution Number 2023-15 adopted on March 21, 2023 by the Mahtomedi City Council, the cities jointly requested that the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit concurrently detach certain property from the City of White Bear Lake and annex the same to the City of Mahtomedi (the “Annexation Property”);

WHEREAS, after execution of the resolutions listed above, it was discovered the legal description for the Annexation Property was incomplete;

WHEREAS, the Cities wish to clarify and modify the legal description of the Annexation Property to include the road right of way adjacent to the Annexation Property;

WHEREAS, the revised description for the Annexation Property is legally described on the attached **Exhibit A** and shown on **Exhibit B**.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MAHTOMEDI AND THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE AS FOLLOWS:

1. That the City of White Bear Lake and the City of Mahtomedi jointly request that the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit concurrently detach the Annexation Property from the City of White Bear Lake and annex the same to the City of Mahtomedi at the earliest possible date.

2. That this Joint Resolution be submitted to the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit for the purposes set forth herein.

3. That the City of Mahtomedi agrees to be responsible for all costs associated with the annexation, including, but not limited to, the preparation and filing of the resolution and boundary maps with the Office of Administrative Hearings.

4. That this Joint Resolution may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Adopted by the City Council of the City of Mahtomedi this _____ day of _____, 2023.

Richard Brainerd, Mayor

Attest: _____
Jerene Rogers, City Clerk

EXHIBIT A
REVISED LEGAL DESCRIPTION OF ANNEXATION PROPERTY

Real Property located in Washington County and legally described as follows:

Lot 8, Block 1 and Lot 8, Block 4, all in McGill's Corner, Washington County, Minnesota; together with that part of Mae Avenue as dedicated by the plat of McGill's Corner, as is on file and of record in the office of the County Recorder, Washington County, Minnesota lying westerly of that part of Mae Avenue as vacated by City of Mahtomedi Notice of Completion of the Partial Vacation of a Street by Resolution Pursuant to Minnesota Statutes §412.851 and §462.358, Subd. 7, filed September 18, 2018, as Document No. 4168789 and lying easterly of that part of Mae Avenue as vacated by Notice of Vacation of Alley filed March 27, 1978, as Document No. 372489, all on file in the office of the County Recorder of Washington County, Minnesota; and together with that part of S.A.R. No. 1 adjacent to Lot 8, Block 1 McGill's Corner, Washington County, Minnesota as shown on the plat of McGill's Corner.

**EXHIBIT B
DEPICTION OF ANNEXATION PROPERTY**



Annexation and Detachment
Mahtomedi, MN



**CITY OF WHITE BEAR LAKE
RESOLUTION NO. 13176**

**CITY OF MAHTOMEDI
RESOLUTION NO. 2023-15**

**A JOINT RESOLUTION REQUESTING CONCURRENT DETACHMENT FROM
WHITE BEAR LAKE AND ANNEXATION INTO MAHTOMEDI OF CERTAIN LANDS
PURSUANT TO MINNESOTA STATUTES SECTION 414.061**

WHEREAS, certain real property, legally described on the attached **Exhibit A** and shown on **Exhibit B** (the “Annexation Property”) is located in the City of White Bear Lake; and

WHEREAS, the Annexation Property is located on the border of the City of Mahtomedi and the City of White Bear Lake; and

WHEREAS, the Annexation Property consists of approximately 1.36 acres; and

WHEREAS, the City of White Bear Lake and the City of Mahtomedi want the Annexation Property to be located within the corporate limits of the City of Mahtomedi; and

WHEREAS, the City of White Bear Lake and the City of Mahtomedi want to modify their mutual municipal boundary to permit the Annexation Property to be located within the City of Mahtomedi; and

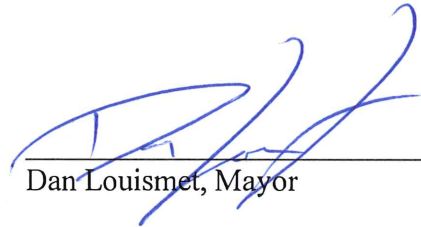
WHEREAS, to modify the boundary, the City of White Bear Lake desires to detach and the City of Mahtomedi desires to annex the Annexation Property pursuant to Minnesota Statutes, § 414.061.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MAHTOMEDI AND THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE AS FOLLOWS:

1. The Cities of White Bear Lake and Mahtomedi jointly request that the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit concurrently detach the Annexation Property from the City of White Bear Lake and annex the same to the City of Mahtomedi at the earliest possible date.
2. That this Joint Resolution be submitted to the Minnesota Office of Administrative Hearings, Municipal Boundary Adjustment Unit for the purpose set forth herein.


3. That the City of Mahtomedi agrees to be responsible for all costs associated with the annexation, including, but not limited to, the preparation and filing of the resolution and boundary maps with the Office of Administrative Hearings.
4. That this Joint Resolution may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

Adopted by the City Council of the City of White Bear Lake on the 28th day of March, 2023. ,



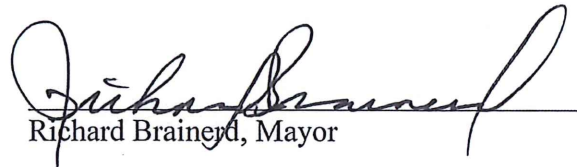
Dan Louismet, Mayor

Attest:




Caley Longendyke, City Clerk

Adopted by the City Council of the City of Mahtomedi on the 21st day of March, 2023.



Richard Brainerd, Mayor

Attest:



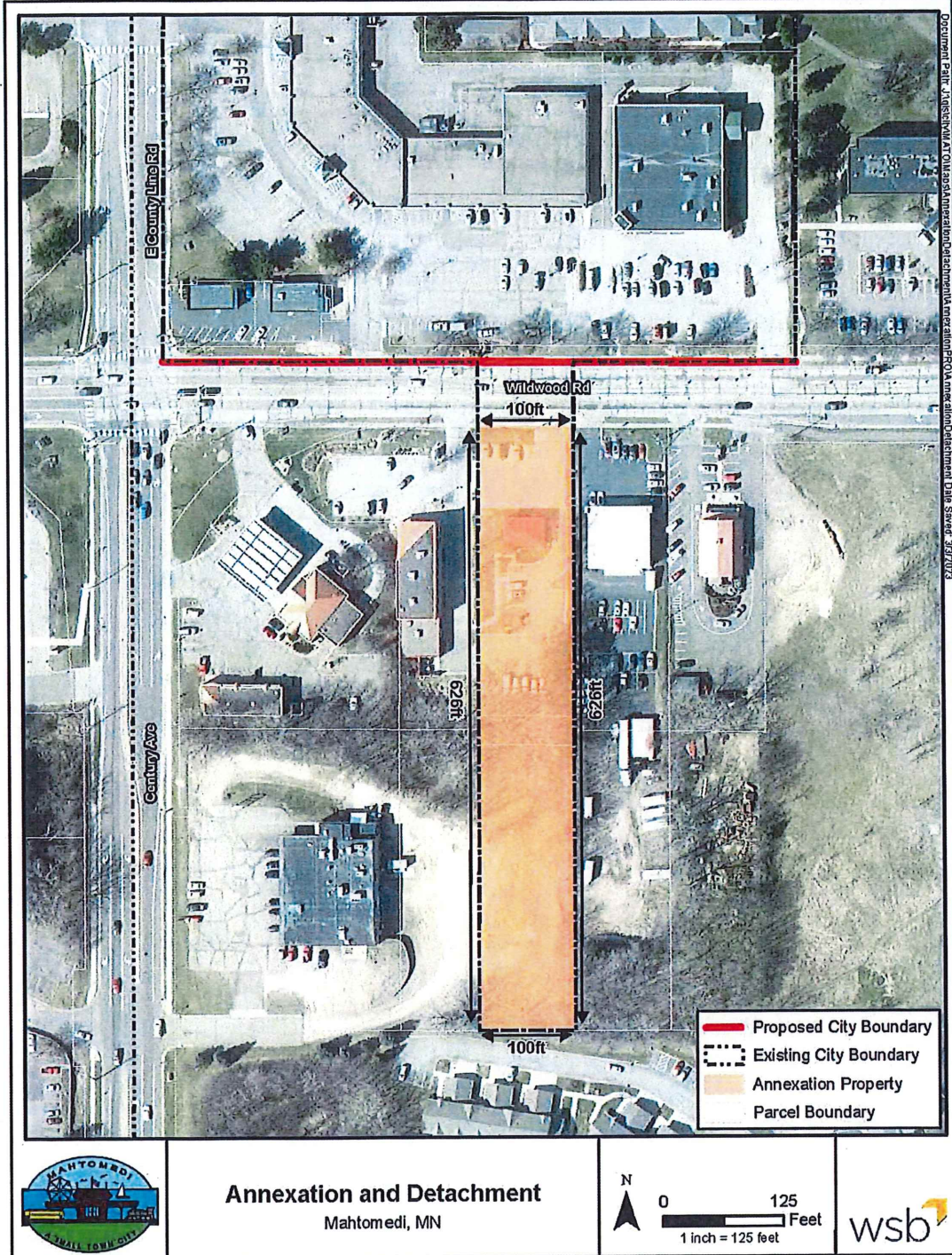
Jerene Rogers, City Clerk

EXHIBIT A
LEGAL DESCRIPTION OF ANNEXATION PROPERTY

Real property located in Washington County and legally described as follows:

Lot 8, Block 1 and Lot 8, Block 4, all in McGill's Corner, Washington County, Minnesota; together with that part of Mae Avenue as dedicated by the plat of McGill's Corner, as is on file and of record in the office of the County Recorder, Washington County, Minnesota lying westerly of that part of Mae Avenue as vacated by City of Mahtomedi Notice of Completion of the Partial Vacation of a Street by Resolution Pursuant to Minnesota Statutes § 412.851 and §462.358, Subd. 7, filed September 18, 2018, as Document No. 4168789 and lying easterly of that part of Mae Avenue as vacated by Notice of Vacation of Alley filed March 27, 1978, as Document No. 372489, all on file in the office of the County Recorder of Washington County, Minnesota.

EXHIBIT B DEPICTION OF ANNEXATION PROPERTY





City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Lindy Crawford, City Manager
From: Caley Longendyke, City Clerk
Date: August 22, 2023
Subject: **Massage Establishment License for Brent Koughan at Salons by JC**

SUMMARY

The City Council will consider adopting a resolution approving a massage establishment license to Brent Koughan at Salons by JC at 1350 Highway 96 E, Suite 18.

BACKGROUND INFORMATION

Pursuant to City Ordinance Chapter 1127, the City regulates massage businesses and practitioner's licenses to ensure they meet minimum qualifications and basic insurance coverages. A 2019 revision to the Massage Ordinance permitted the City Manager to issue Massage Therapist licenses, however, the City Council approves all Massage Establishment licenses before they may be issued.

Brent Koughan submitted an application to allow massage therapy services within a rented-out room at his business Salons by JC, located at 1350 Highway 96 E, Suite 18. Mr. Koughan and a massage therapist, who concurrently submitted a massage therapist license application, have made a lease arrangement to allow the massage therapist to run their massage business in a space located within Salons by JC. Pursuant to the City Municipal Code, businesses which rent or lease space to an independent licensed massage therapist is considered a massage therapist business and must be treated as such, following all provisions of the Municipal Code and the application process to obtain an establishment license.

The Police Department completed a background investigation on Brent Koughan and found nothing to preclude issuance of a massage establishment license to the applicant.

RECOMMENDATIONS

Staff recommends the City Council adopt the attached resolution authorizing a massage establishment license be issued to Brent Koughan for Salons by JC located at 1350 Highway 96 E, Suite 18 in White Bear Lake.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING ISSUANCE OF A MASSAGE THERAPY ESTABLISHMENT
LICENSE TO SALONS BY JC**

WHEREAS, Brent Koughan (Applicant) submitted an application for a massage establishment license for Salons by JC, located at 1350 Highway 96 E, Suite 18, White Bear Lake; and

WHEREAS, the property is zoned B-4: General Business and massage is a permitted use at this location; and

WHEREAS, the business is not primarily for massage therapy, but the Applicant is offering space within the business to a massage therapist who will offer massage services; and

WHEREAS, pursuant to the Municipal Code, businesses that rent or lease space to an independent licensed massage therapist is considered a massage therapist business; and

WHEREAS, the White Bear Lake Police Department found nothing in the background investigation to preclude the issuance of a massage establishment license to the Applicant.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, Minnesota, it hereby issues a massage establishment license as follows:

Brent Koughan
Salons by JC
1350 Highway 96 E, Suite 18
White Bear Lake, MN 55110

BE IT FURTHER RESOLVED, that the Applicant and her business will follow the provisions of Chapter 1127 Massage Therapists/Massage Therapist Business of the Municipal Code to maintain a massage establishment license.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: August 22, 2023
Subject: Employee Recognition – Chief of Police

SUMMARY

The City Council and I will recognize Chief of Police Julie Swanson for her years of service to the White Bear Lake Police Department and present her with a gift from the City of White Bear Lake.



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: August 22, 2023
Subject: Prosecution Services Update

SUMMARY

The City Council will receive a presentation from Robb Olson and Heather Monnens of GDO Law, the City's prosecuting attorneys. GDO is contractually obligated to provide the City Council an annual update regarding services provided.

RECOMMENDATIONS

Receive the presentation and discuss as necessary. No action by the City Council is necessary.

ATTACHMENTS

None



City of White Bear Lake
Community Development Department

MEMORANDUM

To: Lindy Crawford, City Manager
From: Jason Lindahl, Community Development Director
Date: August 22, 2023
Subject: Community Development Department Bi-annual Report

SUMMARY

This memo summarizes activity in the Community Development Department for the 1st half of 2023 (January - June 2023). Staff will present this information during the meeting and take questions or comments from the City Council.

ANALYSIS

Overall, the attached data shows both short-term and historical (longer-term) increases in building permit activity, notable increases in code enforcement activities and slight increases in zoning activities.

Planning While not quantified in these numbers, it is also important to note that Planning staff spent significantly more time on community engagement during the first half of 2023 with the implementation of the City's new concept plan review process and neighborhood meetings associated with the North Campus, 2502 County Road E, and 2687 County Road D (Dignisuites) land use applications. While difficult to measure, staff believes the new concept plan review process and extra community engagement time resulted in both better project outcomes and higher community involvement and satisfaction in the planning process.

Building Building permit data is provided in three tables: first half data for White Bear Lake, first half comparison data for White Bear Lake and Mahtomedi, and permit number, valuation and fee history from 2009 to 2023. In just White Bear Lake, the city experienced a 17% increase in the total number of permits in the first half of 2023 when compared with to same time last year. This resulted in a 97% increase in plan and permit fees over this same period. The most significant contributors to these increases were the Lochner apartment building at County Road E and Hoffman Road and improvements at North Campus. The Lochner apartments also contributed over \$120,000 to the city through park dedication fees.

When looking at White Bear Lake and Mahtomedi together, there was a 19% increase in the total number of permits for the first half of 2023. White Bear Lake processed 243 more permits in the first half of 2023, while Mahtomedi added another 142 over 2022 levels. Together, the increase in the total number of permits resulted in an 81% increase in total permit valuation and a 47% increase in total permit and plan review fees for the first half of 2023.

The third table provides permit number, valuation and fees from 2009 through the first half of 2023. Generally, with only periodic dips, this table shows the number, valuation and fees of building permits trending upward since 2009. Comparing just the first half of the year in the period from 2009 to present, permits more than doubled, valuations grew seven (7) times and fees were up by a factor of five.

Code Enforcement Data is broken down by violation type and status in each of the City's 5 Wards. While code enforcement complaints were steady in the first half of 2022 and 2023, proactive or city-initiated cases were up significantly in 2023 as compared with 2022. This is primarily the result of the Code Enforcement Officer position being vacant for a significant portion of last year.

Overall, the number of code enforcement cases were up in the first half of 2023 when compared with 2022. There was also an increase in the number of resolved (or closed) cases in 2023. In the types of code enforcement cases, the most significant increases were in the areas of parking, motor vehicles and miscellaneous (signs, animals, rental violations & work done without a permit). When comparing each Ward, the most notable increases in violations in the first half of 2023 compared with the first half of 2022 was in Ward 2. Most of that increase in came from exterior storage and motor vehicle violations.

Zoning Activity Data is provided by type and compares the first half of 2023 with the first half and totals for 2022. Overall, the first half of 2023 saw a 5% increase in zoning activity when compared with the first half of 2022 and appears to be slightly ahead of total activity in 2022. There were increases in the number of questions and inquiries and decreases in the number of zoning permits and meetings. The decrease in zoning permits is the result of fewer driveway permits because there was no city street reconstruction project this year while the Downtown Mobility and Parking Study is taking place. And while overall meetings were down, questions and inquiries to staff were up significantly and are generally a leading indicator in other zoning activities.

RECOMMENDATION

This item is for review and discussion. No action is requested.

ATTACHMENTS

Build Permit, Code Enforcement and Zoning Activity Data

WHITE BEAR LAKE & MAHTOMEDI COMPARISON OF PERMITS

MONTHLY COMPARISONS JUNE 2023	2023 WBL YTD	2023 MA YTD	2023 WBL & MA YTD	2022 WBL YTD	2022 MA YTD	2022 WBL & MA YTD	WBL CHANGE IN NUMBERS	WBL % CHANGE	WBL & MA CHANGE IN NUMBERS	WBL & MA % CHANGE	MA % OF TOTAL ACTIVITY
--	-----------------------------	----------------------------	--------------------------------------	-----------------------------	----------------------------	--------------------------------------	--------------------------------------	-------------------------	---	----------------------------------	---------------------------------------

PERMIT TOTALS:

Comm./Ind. (New)	2	0	2	0	1	1	2	#DIV/0!	1	100%	0%
Comm./Ind. (Alt)	23	4	27	16	6	22	7	44%	5	23%	15%
S.F. Dwelling (New)	2	8	10	1	2	3	1	100%	7	233%	80%
S.F. Dwelling (Alt)	699	374	1073	470	303	773	229	49%	300	39%	35%
Garage Only	15	2	17	9	5	14	6	67%	3	21%	12%
Other Building Permits	10	3	13	13	2	15	-3	-23%	-2	-13%	23%
Demolition	5	0	5	10	2	12	-5	-50%	-7	-58%	0%
Electrical	342	132	474	309	87	396	33	11%	78	20%	28%
All Other Permit Types	547	198	745	575	171	746	-28	-5%	-1	0%	27%
ALL PERMIT TYPE TOTALS:	1645	721	2366	1403	579	1982	242	17%	384	19%	30%

PERMIT VALUATION:

Comm./Ind. (New)	\$45,385,251	\$0	\$45,385,251	\$0	\$20,064,000	\$20,064,000	\$45,385,251	#DIV/0!	\$25,321,251	126%	0%
Comm./Ind. (Alt)	\$28,227,686	\$231,780	\$28,459,466	\$7,293,905	\$2,171,155	\$9,465,060	\$20,933,781	287%	\$18,994,406	201%	1%
S.F. Dwelling (New)	\$1,622,916	\$6,246,756	\$7,869,672	\$489,980	\$1,200,000	\$1,689,980	\$1,132,936	231%	\$6,179,692	366%	79%
S.F. Dwelling (Alt)	\$14,818,198	\$14,353,365	\$29,171,563	\$8,201,305	\$6,440,384	\$14,641,689	\$6,616,893	81%	\$14,529,874	99%	49%
Garage Only	\$384,931	\$30,500	\$415,431	\$185,860	\$248,620	\$434,480	\$199,071	107%	-\$19,049	-4%	7%
Fire Suppression	\$1,005,673	\$69,762	\$1,075,435	\$2,061,269	\$83,767	\$2,145,036	-\$1,055,596	-51%	-\$1,069,601	-50%	6%
Heating (HVAC)	\$7,390,749	\$868,442	\$8,259,191	\$17,941,295	\$3,922,844	\$21,864,139	-\$10,550,546	-59%	-\$13,604,948	-62%	11%
Other Valuation Permits	\$7,031,405	\$147,800	\$7,179,205	\$318,553	\$40,000	\$358,553	\$6,712,852	2107%	\$6,820,652	1902%	2%
VALUATION TOTALS:	\$105,866,809	\$21,948,405	\$127,815,214	\$36,492,167	\$34,170,770	\$70,662,937	\$69,374,642	190%	\$57,152,277	81%	17%

PERMIT FEES:

Comm./Ind. (New)	\$185,585	\$0	\$185,585	\$0	\$82,248	\$82,248	\$185,585	#DIV/0!	\$103,337	126%	0%
Comm./Ind. (Alt)	\$144,703	\$2,750	\$147,453	\$39,456	\$14,454	\$53,910	\$105,247	267%	\$93,543	174%	2%
S.F. Dwelling(New)	\$22,368	\$40,323	\$62,691	\$3,687	\$8,626	\$12,313	\$18,681	507%	\$50,378	409%	64%
S.F. Dwelling (Alt)	\$142,457	\$118,120	\$260,577	\$102,824	\$66,790	\$169,614	\$39,633	39%	\$90,963	54%	45%
Garage Only	\$6,238	\$568	\$6,806	\$3,451	\$2,978	\$6,429	\$2,787	81%	\$377	6%	8%
Other Building Permits	\$2,566	\$1,747	\$4,313	\$3,897	\$745	\$4,642	-\$1,331	-34%	-\$329	-7%	41%
Demolition	\$1,000	\$0	\$1,000	\$2,150	\$400	\$2,550	-\$1,150	-53%	-\$1,550	-61%	0%
Electrical	\$64,202	\$11,428	\$75,630	\$27,280	\$9,479	\$36,759	\$36,922	135%	\$38,871	106%	15%
All Other Permit Types	\$130,038	\$22,330	\$152,368	\$209,009	\$47,356	\$256,365	-\$78,971	-38%	-\$103,997	-41%	15%
PERMIT FEE TOTALS:	\$699,157	\$197,266	\$896,423	\$391,754	\$233,076	\$624,830	\$307,403	78%	\$271,593	43%	22%
PLAN FEES:	\$230,419	\$37,162	\$267,581	\$80,611	\$87,521	\$168,132	\$149,808	186%	\$99,449	59%	14%
TOTAL PERMIT & PLAN FEES:	\$929,576	\$234,428	\$1,164,004	\$472,365	\$320,597	\$792,962	\$457,211	97%	\$371,042	47%	20%

Park Fees	\$121,256		\$121,256	\$1,200	\$0	\$1,200	\$120,056	10005%	\$120,056	10005%	0%
SAC Fees	\$626,220	\$17,395	\$643,615	\$62,125	\$278,320	\$340,445	\$564,095	908%	\$303,170	89%	3%

**WHITE BEAR LAKE
JANUARY - JUNE BUILDING PERMIT DATA**

January - June	2023	2022	Change	% Change
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PERMIT TOTALS:

Comm./Ind. (New)	2	0	2	#DIV/0!
Comm./Ind. (Alt)	23	16	7	44%
S.F. Dwelling (New)	2	1	1	100%
S.F. Dwelling (Alt)	699	470	229	49%
Garage Only	15	9	6	67%
Other Building Permits	10	13	-3	-23%
Demolition	5	10	-5	-50%
Electrical	342	309	33	11%
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ALL PERMIT TYPE TOTALS:	1645	1403	242	17%

PERMIT VALUATION:

Comm./Ind. (New)	\$45,385,251	\$0	\$45,385,251	#DIV/0!
Comm./Ind. (Alt)	\$28,227,686	\$7,293,905	\$20,933,781	287%
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Garage Only	\$384,931	\$185,860	\$199,071	107%
Fire Suppression	\$1,005,673	\$2,061,269	-\$1,055,596	-51%
Heating (HVAC)	\$7,390,749	\$17,941,295	-\$10,550,546	-59%
Other Valuation Permits:	\$7,031,405	\$318,553	\$6,712,852	2107%
VALUATION TOTALS:	\$105,866,809	\$36,492,167	\$69,374,642	190%

PERMIT FEES:

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Garage Only	\$6,238	\$3,451	\$2,787	81%
Other Building Permits	\$2,566	\$3,897	-\$1,331	-34%
Demolition	\$1,000	\$2,150	-\$1,150	-53%
Electrical	\$64,202	\$27,280	\$36,922	135%
All Other Permit Types	\$130,038	\$209,009	-\$78,971	-38%
PERMIT FEE TOTALS:	\$699,158	\$391,754	\$307,404	78%
PLAN FEES:	\$230,419	\$80,611	\$149,808	186%
TOTAL PERMIT & PLAN FEES:	\$929,577	\$472,365	\$457,212	97%

Park Fees	\$121,256	\$1,200	\$120,056	10005%
SAC Fees	\$626,220	\$62,125	\$564,095	908%

JULY YTD**White Bear Lake****Mahtomedi****Combined**

<u>YEAR</u>	<u>COUNT</u>	<u>VALUATION</u>	<u>FEES</u>	<u>YEAR</u>	<u>COUNT</u>	<u>VALUATION</u>	<u>FEES</u>	<u>COUNT</u>	<u>VALUATION</u>	<u>FEES</u>	
2009	1069	\$18,150,408	\$237,556	2009	251	\$5,216,859	\$65,618	2009	1320	\$23,367,267	\$303,174
2010	1277	\$12,566,722	\$222,321	2010	285	\$5,860,316	\$83,898	2010	1562	\$18,427,038	\$306,219
2011	1046	\$8,036,205	\$166,491	2011	388	\$5,906,456	\$110,515	2011	1434	\$13,942,661	\$277,006
2012	1185	\$7,158,195	\$157,756	2012	347	\$6,500,066	\$96,121	2012	1532	\$13,658,261	\$253,877
2013	1255	\$13,835,095	\$196,136	2013	346	\$6,971,154	\$89,541	2013	1601	\$20,806,249	\$285,677
2014	1010	\$17,501,747	\$240,185	2014	286	\$4,635,100	\$68,265	2014	1296	\$22,136,847	\$308,450
2015	1406	\$45,207,735	\$421,078	2015	433	\$8,942,460	\$111,570	2015	1839	\$54,150,195	\$532,648
2016	1389	\$30,878,461	\$329,660	2016	423	\$4,602,410	\$74,190	2016	1812	\$35,480,871	\$403,850
2017	1309	\$18,044,301	\$260,398	2017	443	\$7,088,875	\$103,161	2017	1752	\$25,133,176	\$363,559
2018	1743	\$36,064,483	\$413,690	2018	524	\$8,801,136	\$118,999	2018	2267	\$44,865,619	\$532,689
2019	1479	\$24,981,303	\$291,492	2019	523	\$14,083,457	\$171,214	2019	2002	\$39,064,760	\$462,706
2020	1399	\$29,478,236	\$385,527	2020	530	\$13,191,401	\$176,448	2020	1929	\$42,669,637	\$561,975
2021	1603	\$28,747,295	\$413,822	2021	505	\$9,106,457	\$126,084	2021	2108	\$37,853,752	\$539,906
2022	1856	\$105,137,231	\$977,725	2022	897	\$41,486,784	\$412,495	2022	2753	\$146,624,015	\$1,390,220
2023	2031	\$116,881,061	\$1,044,629	2023	815	\$23,302,175	\$248,929	2023	2846	\$140,183,236	\$1,293,558

WHITE BEAR LAKE 1st HALF CODE ENFORCEMENT VIOLATIONS BY WARD

January 1- June 30, 2023

	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Total
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TOTAL CASES SUMMARY

Complaints	15	33	31	21	25	125
Proactive / City Initiated	31	69	47	35	24	206
TOTALS:	46	102	78	56	49	331

DETAILED CASE SUMMARY

Refuse / Exterior Storage	6	22	6	12	6	52
Parking	10	17	25	14	9	75
Weeds	0	6	3	5	3	17
Motor Vehicle	9	25	12	13	11	70
Structure Maintenance	0	2	6	2	3	13
Miscellaneous	21	30	26	10	17	104
TOTALS:	46	102	78	56	49	331

CASE STATUS SUMMARY

Number of Open Cases	10	27	21	19	29	106
Number of Closed Cases	36	75	57	37	20	225
TOTALS:	46	102	78	56	49	331

WHITE BEAR LAKE 1st HALF CODE ENFORCEMENT VIOLATIONS BY W.

January 1st - June 30th, 2022

	Ward 1	Ward 2	Ward 3	Ward 4	Ward 5	Total
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TOTAL CASES SUMMARY

Complaints	18	27	30	19	31	125
Proactive / City Initiated	23	16	15	8	5	67
TOTALS:	41	43	45	27	36	192

DETAILED CASE SUMMARY

Refuse / Exterior Storage	21	7	11	6	4	49
Parking	5	9	11	6	12	43
Weeds	5	3	8	4	4	24
Motor Vehicle	2	5	3	1	10	21
Structure Maintenance	1	1	4	4	0	10
Miscellaneous	7	18	8	6	6	45
TOTALS:	41	43	45	27	36	192

CASE STATUS SUMMARY

Number of Open Cases	7	9	11	11	2	40
Number of Closed Cases	34	34	34	16	34	152
TOTALS:	41	43	45	27	36	192

	JAN	FEB	MARCH	APRIL	MAY	JUNE	YTD (6/30/23)	SUM 1 st H 2022	2022 End of Year
SIGN PERMITS	1	1	1	1	2	5	11	17	36
ZONING PERMITS	1	2	9	18	34	22	86	113	193
OTHER PERMITS	5	5	7	12	24	23	76	46	115
ZONING LETTERS ¹	0	1	0	1	2	2	6	7	13
ADMINISTRATIVE VARIANCES	1	1	0	3	5	3	13	7	18
LAND USE CASES*	6	3	3	2	3	4	21	24	38
QUESTIONS / INQUIRIES	63	53	75	100	98	90	479	374	580
MEETINGS	5	11	16	15	6	4	57	122	165
SITE INSPECTIONS	0	0	1	0	0	1	2	8	9
ENFORCEMENT LETTERS	0	0	0	0	0	2	2	1	4
OTHER / MISC [^]	1	1	2	0	1	1	6	5	6
TOTAL	83	78	114	152	175	157	759	724	1177

1. A zoning letter indicates that a commercial property is being sold or refinanced.

JANUARY LAND USE CASES

Winchell Variances

Gilbert Variances

Higher Ground CUP

The Minnesotan CUP

Central Middle School CUP

Silverstar Car Wash CUP

FEBRUARY LAND USE CASES

World of Hope Preschool CUP

Hilliard Variances

Element Design Concept Plan

MARCH LAND USE CASES

North Campus CUP amendment

McNeely Variance

Dignisuites Concept Plan

APRIL LAND USE CASES

Shady Lane Minor Subdivision

Element Design-Build PUD

MAY LAND USE CASES

18XX Clarence St Variance

2241 8th St Minor Subdivision

Scooter's Coffee Concept Plan

JUNE LAND USE CASES

Element Design-Build PUD, Z & P

Dignisuites PUD, Z & P

4008 White Bear Ave CUP

3944 Hoffman Rd Variance

OTHER / MISCELLANEOUS

January:

3881 Highland Parking Lot License

February:

2502 Co. Rd E Concept Plan Neighborhood Meeting

March:

North Campus Neighborhood Meeting

Dignisuites Concept Plan Neighborhood Meeting

May:

Scooter's Concept Plan Neighborhood Meeting

June:

2502 Co. Rd E Concept Plan Neighborhood Meeting



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: August 22, 2023
Subject: **Second Reading of an Ordinance Amending Chapter 1104 – Tobacco and Related Products**

SUMMARY

The City Council will conduct a second reading and consider adopting an ordinance amending Chapter 1104 of the City Code as it relates to tobacco and related products.

BACKGROUND INFORMATION

The City currently does not expressly regulate tobacco shops as a separate use. The City has experienced businesses that have started as retail businesses but have become tobacco shops, even though that use is not recognized as a permitted use in the City's zoning regulations. In addition, the City's regulations for tobacco products need to be updated to keep pace with recent changes in both federal and state laws. To address these areas, the City Council adopted an interim ordinance on September 27, 2022 to authorize a study and impose a moratorium on the establishment or expansion of tobacco shops in city limits.

During the period of the moratorium, staff and the City Attorney have been studying current City regulations and have prepared amended ordinance language for tobacco licensure for review and public comment. Attached is the draft ordinance. Highlights of the ordinance include:

1. Updated definitions and a new definition for Tobacco Products Shop.
2. As it relates to exclusive tobacco shops, a limit of ten (10) tobacco licenses in any given year in city limits.
3. Updated regulations to align with recent changes in both federal and state laws.
4. Granting Council authority to impose administrative penalties for violating state laws or local ordinances.

Chapter 1104 of the City Code and this ordinance amendment do not discuss zoning. A first reading for separate proposed ordinance to discuss zoning of Tobacco Product Shops was held at the August 8 regular Council meeting. The second reading for that ordinance will be conducted at the September 12 regular Council meeting.

RECOMMENDATIONS

1. Staff recommends the City Council conduct the second reading, then adopt the attached ordinance amendment regarding tobacco and related products.
2. Staff recommends the City Council adopt the attached resolution approving the summary publication of said ordinance by title and summary.

ATTACHMENTS

Draft Ordinance

Resolution

CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE
CITY OF WHITE BEAR LAKE REGARDING TOBACCO AND RELATED PRODUCTS

The Council of the City of White Bear Lake does ordain as follows:

ARTICLE I. Tobacco and Related Products. Chapter 1104 of the Municipal Code of the City of White Bear Lake is hereby amended as follows:

1104. TOBACCO AND RELATED PRODUCTS

§1104.010 PURPOSE.

The City recognizes the public health hazards of exposure of individuals to secondhand smoke. This ordinance chapter is intended to regulate the sale, possession, and use of tobacco, tobacco products, and electronic and non-electronic delivery devices for the purpose of enforcing and furthering existing laws, to protect ~~minors~~ persons under the age of 21 and others against the serious effects associated with the use of tobacco, tobacco products, and related devices, to protect individuals from the hazards of secondhand smoke, and to further the official public policy of the State of Minnesota as stated in Minn. Stat. Sections 144.391 and 144.412.

§1104.020 DEFINITIONS.

1. ~~Minor Underage Person.~~ ~~Means~~ any natural person who has not yet reached the age of ~~18~~ 21 years.
2. ~~Smoking.~~ ~~Means~~ inhaling and/or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other non-electronic delivery device or product. This also includes holding the same, intended for inhalation.
3. ~~Tobacco or Tobacco Products.~~ ~~Any substance, item, product or formulation of matter - including but not limited to cigars, cigarettes, pipe tobacco, chewing tobacco, sheesha, snuff, snus, gum and dissolvable packets - containing tobacco, that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product approved by the United States Food and Drug Administration for use as a medical treatment to reduce and eliminate nicotine or tobacco dependence that is being marketed and sold solely for such an approved purpose or lobelia dietary supplements as sold by a health food establishment that does not carry any other Nicotine or Tobacco Products or Delivery Devices.~~ Means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or

any component, part, or accessory of a tobacco product including but not limited to cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

4. *Tobacco-Related Devices. Non-Electronic Delivery Device.*— Any substance, item, or product including ~~but not limited to pipes, rolling papers and cigarettes~~ that is designed or intended to be used in a manner which delivers, or enables the intake of tobacco into the human body. Means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.
5. *Electronic Delivery Device.* Means Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption that can be used by a person to simulate smoking through the inhalation of vapor from the product, including, without limitation, e-cigarettes through inhalation of aerosol or vapor from the product. The term includes, but is not limited to, devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. The term also includes ~~Electronic Delivery Device shall include any component part of such a product whether or not marketed or sold separately. Electronic Delivery Device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose. The term does not include drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.~~
6. *Loosies.* Means single cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. The term does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

7. Tobacco Products Shop. Means an existing or proposed retail establishment that:

- (a) Has an entrance door opening directly to the outside;
- (b) Prohibits persons under the age of 21 years from entering the establishment at any time; and
- (c) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, electronic delivery devices, edible cannabinoid products under Minnesota Statutes, section 151.72, or any product requiring a license to sell at retail from the Office of Cannabis Management under Minnesota Statutes, chapter 342, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

§1104.030 LICENSE REQUIRED.

1. *Generally.*

- a. *Required.* No person may directly or indirectly or by means of any device keep for retail sale, sell at retail, offer to sell or otherwise dispose of any tobacco products, tobacco-related devices, or electronic delivery devices at any place in the eCity without first having obtained a license from the City to do so.
- b. *Limit.* The maximum number of licenses issued by the City in any year to a retail establishing qualifying as a tobacco products shop under this chapter is limited to ten (10), except that any tobacco products shop holding a valid license as of July 1, 2023 is permitted to retain and renew said license. If the maximum number of licenses has already been issued, a licensee that allows its license to expire or has its license revoked shall not be eligible for a new license. Persons desiring to apply for a license may be placed on a waiting list and be eligible to apply on a first-come, first-serve basis once the number of issued licenses falls below the maximum number allowed. Notwithstanding the maximum number of allowed licenses, an applicant who purchases a tobacco products shop holding a current license shall be allowed to apply for and obtain, if eligible, a new license for the business location provided it is obtained within the same license year as the current license.

2. *Specifically.*

- a. *Application.* An application for a license to sell tobacco products, tobacco-related devices, or electronic and delivery devices shall be made on a form provided by the eCity. The application shall contain the full name of the applicant, the applicant's residential and business addresses, and telephone numbers, the name of the business for which the license is sought, and any

additional information the eCity deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for consideration. If the City Clerk determines that the application is incomplete, the eCity Clerk shall provide the applicant with notice of the information necessary to make the application complete.

- b. *Action.* Upon receipt of a completed application, the City Clerk shall forward the application to the police department for investigation. The police department shall conduct an investigation of the applicant and application, the results of which shall be provided to the City Council. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any further investigation it may deem necessary. If the City Council approves the license, the City Clerk shall issue the license to the applicant.
- c. *Term.* All licenses issued under this ordinance chapter shall expire on March 31 of each calendar year, unless sooner revoked, suspended or forfeited.
- d. *Fees.* No license shall be issued under this ordinance chapter until the appropriate license fee has been paid in full. The fee(s) for a license under this ordinance chapter shall be established by the City Council as amended from time to time.
- e. *Smoking.* Smoking shall not be permitted in and no person shall smoke in a public place as defined by Minn. Stat. Section 144.413, Subd.2, at a public meeting, in a place of employment, or in public transportation, except as provided in Minn. Stat. Sections 144.414 and 144.4167, including sampling within a ~~t~~Tobacco ~~p~~Product ~~s~~Shop, as defined in Minn. Stat. Section 144.4167, provided that:
 - i. The business does not have any tables, seating or wait staff.
 - ii. The sampling is limited to free samples of products.
 - iii. The sampling is incidental to the selling of the products and is not the primary activity on site.
 - iv. There are no external signs on site promoting the sampling.
- f. *Sanctions for violation.* Violators of this ordinance chapter shall be guilty of a misdemeanor.
- g. *Transfers.* All licenses issued under this ordinance chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid.
- h. *Display.* All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

- i. *Responsibility.* All licensees under this ordinance chapter shall be responsible for the actions of their employees in regard to the sale of tobacco products, tobacco-related devices, or electronic and delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder.
- j. *Renewals.* The renewal of a license issued under this article shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days prior to the expiration of the current license. The license holder is not entitled to an automatic renewal of the license.
- k. *Revocation or Suspension.* Any license issued under this ordinance chapter may be revoked or suspended by the City Council for a violation of federal or state tobacco laws, any provision of this chapter, or a provision of this Code related to the licensee's business operations, provided if the licensee has been given a reasonable notice and an opportunity to be heard. The City Council may establish and impose administrative penalties for violating applicable state laws or provisions of this chapter, provided such penalties are not less than the minimums required by Minnesota Statutes, Section 461.12.

§1104.040 BASIS FOR DENIAL OF A LICENSE. The following shall be grounds for denying the issuance of or renewal of a license under this Section. The following list is not exhaustive or exclusive:

- 1. The applicant is ~~a minor~~ under the age of 21.
- 2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco products, tobacco-related devices, or electronic delivery devices.
- 3. The applicant has had a license to sell tobacco products, tobacco-related devices, or electronic delivery devices revoked within the preceding 12 months of the date of application.
- 4. The applicant provides false or misleading information.
- 5. The applicant or license holder has been found by the City Council to have violated this Code within the previous 12 months, or has outstanding fines, penalties, charges or property taxes owed to the City.
- 6. The applicant is prohibited by federal or state law, local ordinance, or other regulation, from holding such a license.
- 7. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this article.

§1104.050 PROHIBITED SALES. It shall be a violation of this article for any person to give away, dispense, sell or offer to sell any tobacco product or delivery device:

1. To an ~~an~~ minor underage person.
2. By a vending machine.
3. By self-service, or in open displays which are accessible to the public without the assistance or intervention of a store employee.
4. As a single or individually packaged item, such as cigarillos, or anything for less than \$2.00 before tax. Packs or Cartons or other packaging containing more than 3 items and individual cigars with a retail price, before sales tax, of more than \$2.00, shall not be considered individually packaged.
5. By a mobile business, including but not limited to motorized vehicles, moveable sales kiosks or trailers. Licenses shall be issued to fixed location businesses only.
6. If the tobacco products, tobacco-related devices, or electronic delivery devices contain opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, cannabinoid, tetrahydrocannabinol, or other delirious, hallucinogenic, toxic, or controlled substances except nicotine.
7. To any other person, in any other manner or form prohibited by federal or state law or regulation, or by local ordinance.
8. As a loosie.

§1104.060 COMPLIANCE CHECKS AND INSPECTIONS. All licensed premises shall be open to inspection by the eCity police or other authorized eCity official during regular business hours. From time to time, but at least once per year, an unannounced compliance check, involving the use of ~~minors~~ persons who are at least 17 years of age but not yet 21 years of age, with written parental consent for persons under the age of 18, shall be conducted at each licensed retail establishment, subject to police department protocols.

§1104.080 EXCEPTIONS AND DEFENSES. Nothing in this ~~ordinance~~ chapter shall prevent the providing of a tobacco product, tobacco-related devices, or electronic delivery device, to an ~~minor underage person~~ as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this ~~ordinance~~ chapter for a person to have reasonably relied upon proof of age.

§1104.090 SIGNAGE AND AGE VERIFICATION REQUIRED:

1. Signage. At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the licensed establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

2. Age verification. At each location where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold, the licensee shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age. Verification is not required if the purchaser or person attempting to make the purchase is 30 years of age or older. It shall not constitute a defense to a violation of this subdivision that the person appeared to be 30 years of age or older.

ARTICLE II. Underaged Possession of Tobacco. Section 704.050 of the Municipal Code of the City of White Bear Lake is hereby amended as follows:

§704.050 MINORS UNDERAGE PERSONS, POSSESSION OF TOBACCO. (Ref: Ord. 905, 1/11/94)

Subd. 1. Definitions. For the purposes of this section, the following terms shall have the meanings respectively ascribed to them in this section.

- Aa) "Tobacco" means cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or other tobacco-related devices.
- b) "Tobacco-related devices" means cigarette papers or pipes for smoking.

Subd. 2. Possession by ~~Minors~~ Persons Under 21 Prohibited. Whoever uses, purchases, attempts to purchase, or possesses tobacco or tobacco related devices and is under the age of ~~eighteen (18)~~ twenty-one (21) years is guilty of a petty misdemeanor. This subdivision does not apply to a person under the age of ~~eighteen (18)~~ twenty-one (21) years who purchases, attempts to purchase, or possesses tobacco or tobacco related devices while under the direct supervision of a responsible adult for training, education, research or enforcement purposes. This subdivision does not apply to the employee of a licensee who is 18 years of age or older when handling tobacco or tobacco related devices as part of a sale to an individual who is 21 years of age or older.

ARTICLE III. Consistency in References. When incorporating the amendments made by this Ordinance into the Municipal Code, City staff shall change all references to "Council" to "City Council" to make them consistent throughout the Chapter.

ARTICLE IV. Severability. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

ARTICLE V. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of _____ 2023.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

(~~Strikeout~~ indicates matter to be deleted, double underline indicates new matter.)

First Reading: _____

Initial Publication: _____

Second Reading: _____

Final Publication: _____

Codified: _____

Posted on web: _____

RESOLUTION NO.

A RESOLUTION APPROVING SUMMARY PUBLICATION OF AN ORDINANCE AMENDING THE MUNICIPAL CODE REGARDING TOBACCO AND RELATED PRODUCTS

WHEREAS, the City of White Bear Lake City Council adopted Ordinance No. _____
“An Ordinance Amending the Municipal Code of the City of White Bear Lake Regarding Tobacco and Related Products” (“Ordinance”) at its August 22, 2023 meeting; and

WHEREAS, the City Council may, pursuant to Ordinance No. 83-6-666, City Charter Section 4.14, and Minnesota Statutes, section 412.191, subdivision 4, adopt a title and summary of an ordinance for publication in lieu of publishing the entire text of a lengthy ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City of White Bear Lake City Council hereby approves the following title and summary language for publication of the Ordinance:

**CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____**

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF WHITE BEAR LAKE REGARDING TOBACCO AND RELATED PRODUCTS

A text amendment refining definitions, updating regulations to align with federal and state laws, granting authority to the City Council to impose administrative penalties for violations and limiting the number of tobacco products shops in the City of White Bear Lake.

BE IT FURTHER RESOLVED, that the City of White Bear Lake City Council hereby directs the City Clerk to do each of the following:

1. Publish the approved summary language once in the City’s official newspaper;
2. Have available for inspection during regular office hours a copy of the entire Ordinance;
3. Place a copy of the entire Ordinance at the White Bear Lake Branch of the Ramsey County Public Library;
4. Obtain an affidavit of publication of the title and summary from the official newspaper and place it in the City’s ordinance book together with the Ordinance and a copy of this Resolution;
5. Post this Ordinance on the City’s website.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:

Nays:

Passed:

RESOLUTION NO.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Published one time in the White Bear Press on _____, 2023.



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: August 22, 2023
Subject: **Second Reading of an Ordinance Requiring Licensing and Imposing Regulations on the Sale of Edible Cannabinoid Products**

SUMMARY

The City Council will conduct a second reading and consider adopting an ordinance requiring licensing and imposing regulations on the sale of edible cannabinoid products.

BACKGROUND INFORMATION

On July 1, 2022, it became legal for businesses to sell certain products containing delta-9 tetrahydrocannabinol (THC) in Minnesota. The 2022 Legislation outlined requirements for legal sale of these products, including a maximum of 5 milligrams of THC per dose and a maximum of 50 milligrams of THC per container. The authorizing legislation didn't address local regulation on the sale and there was uncertainty of local governments' scope of authority and whether additional local regulations needed consideration. Therefore, the City Council approved an interim ordinance authorizing a study and imposing a moratorium on the sale of cannabis products. The moratorium became effective on September 27, 2022 with a 12-month term, or until repealed by the City Council or until the effective date of an ordinance amending the City Code which addresses the sale of cannabis products.

During the 2023 legislative session, the Minnesota Legislature enacted Chapter 63—HF 100, which is comprehensive legislation relating to cannabis, including, but not limited to, the establishment of the Office of Cannabis Management (OCM), legalizing and limiting the possession and use of cannabis and certain hemp products by adults, providing for the licensing, inspection, and regulation of cannabis businesses and hemp businesses, taxing the sale of cannabis flower, cannabis products, and certain hemp products, establishing grant and loan programs, amending criminal penalties, providing for expungement of certain convictions, and providing for the temporary regulation of certain edible cannabinoid products.

Once the OCM is established, they will be the regulatory authority for the licensing of cannabis businesses and the sale of all cannabinoid products, defined as cannabis products, hemp-derived consumer products, or lower-potency hemp edibles. The City's moratorium is approaching the end of its 12-month term and until the OCM starts licensing the sale of lower-potency edibles, there will not be any regulatory authority overseeing the sale of edible

cannabinoid products in the City. Therefore, a short-term issue requiring City consideration is whether or not to establish a licensing system for the sale of edible cannabinoid products (or lower-potency hemp edibles) which can be sold by businesses who do not fall under the definition of a cannabis business and don't need a cannabis business license, under Minnesota Statutes, Chapter 342.

At the direction of City Council during a work session on June 13, 2023, the City Attorney and staff prepared an ordinance establishing a licensing structure for edible cannabinoid businesses and regulating the sale of edible cannabinoid products or lower-potency hemp edible products until OCM takes over licensing of these products. Highlights of the ordinance include:

- Applicable definitions, eligible and ineligible license qualifications, application procedure
- Products must be stored in areas not freely accessible to customers and general public.
- Application period is consistent with all other business licenses – April 1- March 31.
- Sales are only allowed to persons 21 years or older.
- Allows for compliance checks, revocation and suspension.
- Licensing decisions rest with the City Council.
- Terminates and will no longer be effective once edible cannabinoid products (or lower-potency hemp edibles) are licensed through OCM.

RECOMMENDATION

1. Staff recommends the City Council conduct the second reading, then adopt the attached ordinance relating to the sale and regulation of edible cannabinoid products.
2. Staff recommends the City Council adopt the attached resolution approving the summary publication of said ordinance by title and summary.

ATTACHMENTS

Draft Ordinance
Resolution

**CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____**

**AN ORDINANCE REQUIRING A LICENSE AND IMPOSING REGULATIONS
ON THE RETAIL SALE OF EDIBLE CANNABINOID PRODUCTS**

The Council of the City of White Bear Lake does ordain:

Section 1. Purpose. The purpose of this ordinance is to establish licensing and sale regulations for the retail sale of edible cannabinoid products derived from hemp as provided in Minnesota Statutes, section 151.72.

Section 2. Legislative Findings. The City Council hereby finds and determines as follows:

- (a) In 2022, the Minnesota Legislature’s amended Minnesota Statutes, section 151.72 to expressly allow the sale of edible products that contain tetrahydrocannabinol (“THC”) without any associated licensing requirements.
- (b) The unexpected change in the law, the lack of licensing and other regulatory standards, and the concerns regarding the potential impacts of the sale of edible cannabinoid products resulted in the City Council acting on September 27, 2022 to enact a one-year moratorium on the sale of THC Products.
- (c) Since that time, the City has studied the issue and anticipated the Legislature would provide additional guidance and regulation during the 2023 session on the sale of such products. While the Legislature did adopt a 321-page cannabis bill, it essentially maintained the status quo regarding the sale of edible cannabinoid products under Minnesota Statutes, section 151.72 until the newly established Office of Cannabis Management begins licensing cannabis businesses.
- (d) Because the Office of Cannabis Management is not likely to begin issuing licenses to sell lower-potency hemp products until early 2025, and faced with continuing uncertainties associated with the sale of edible cannabinoid products, the City Council determines it is in the best interests of the City to require a license to sell such products and to impose related regulations until the Office of Cannabis Management assumes the licensing of cannabis businesses.

Section 3. Definitions. For the purposes of this ordinance, the following terms shall have the meanings given them in this section. If a term is not defined herein, it shall have the meaning given it in Minnesota Statutes, section 151.72 or, if not defined therein, the definition given the term in the municipal code.

Subd. 1. City. The City of White Bear Lake, Minnesota.

Subd. 2. Compliance Checks. The system the City uses to investigate and ensure that those authorized to sell edible cannabinoid products are following and complying with the requirements of this ordinance and state laws. Compliance checks involve the use of compliance check minors, as authorized by this ordinance, who purchase or attempt to purchase edible cannabinoid products. Compliance checks may also be conducted by the City or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to edible cannabinoid products.

Subd. 3. Delivery Sales. The sale of any edible cannabinoid product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a retail establishment. Delivery sales include, but are not limited to, the sale of any edible cannabinoid products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sales include delivery by licensees or third parties by any means, including curbside pick-up.

Subd. 4. Edible Cannabinoid Product. Any product containing nonintoxicating cannabinoids extracted from hemp that meets the requirements to be sold for human or animal consumption under Minnesota Statutes, section 151.72. The term includes edible cannabinoid products as defined in Minnesota Statutes, section 151.72, subdivision 1(f). The term does not include medical cannabis as defined in Minnesota Statutes, section 152.22, subdivision 6.

Subd. 5. Eligible Business. A business located within the City that has a current tobacco license to sell tobacco or tobacco products at retail issued by the City under Article X, Chapter 1104 of the municipal code, or that has a current on-sale or off-sale liquor license to sell intoxicating liquor issued by the City under Article IX of the municipal code.

Subd. 6. Hemp or Industrial Hemp. Has the same meaning given the term in Minnesota Statutes, section 18K.02, subdivision 3, as it may be amended.

Subd. 7. Label. Has the same meaning given the term in Minnesota Statutes, section 151.01, subdivision 18, as it may be amended.

Subd. 8. Labeling. Has the meaning given the term in Minnesota Statutes, section 151.72, subdivision 1(i).

Subd. 9. Licensee. The entity issued a license under their ordinance to sell edible cannabinoid product at retail.

Subd. 10. Moveable Place of Business. Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Subd. 11. Municipal Code. The most current version of the Municipal Code of City of White Bear Lake, Minnesota.

Subd. 12. Ordinance. This ordinance requiring a license and imposing regulations on the retail sale of edible cannabinoid products.

Subd. 13. Product Label. Has the same meaning given the term “label” in Minnesota Statutes, section 151.72, subdivision 1(h).

Subd. 14. THC. Means tetrahydrocannabinol.

Subd. 15. Self-Service Merchandising. Open displays of edible cannabinoid products in any manner where any person has access to the edible cannabinoid products without the assistance or intervention of the licensee or the licensee's employee. Assistance or intervention

means the actual physical exchange of the edible cannabinoid product between the customer and the licensee or employee.

Subd. 16. Vending Machine. Any mechanical, electric, or electronic, or other type of device that dispenses edible cannabinoid products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the edible cannabinoid product.

Section 4. License.

Subd. 1. Required. No person may directly or indirectly, or by means of any device, keep for retail sale, sell at retail, offer to sell, or otherwise dispose of any edible cannabinoid product at retail at any place in the City without first having obtained a license from the City issued in accordance with the provisions of this ordinance.

Subd. 2. Eligibility. The City shall only issue a license to sell edible cannabinoid products to an eligible business that qualifies to receive a license under the requirements of this ordinance.

Subd. 3. Manufacturing Exception. No license is required under this ordinance for the manufacturing of edible cannabinoid products or the sale by a manufacturer of its products to resellers, provided the manufacturer does not sell edible cannabinoid products directly to the public.

Section 5. Ineligible Places and Operations. The City shall not issue or renew a license under this ordinance to sell edible cannabinoid products to:

- (a) A business or operation that does not qualify as an eligible business under this ordinance;
- (b) A business providing delivery sales of any edible cannabinoid products;
- (c) A moveable place of business;
- (d) A business utilizing a vending machine to sell edible cannabinoid products;
- (e) A business located at a premise on which taxes, assessments, or other financial claims of the City are delinquent and unpaid. If an action has been commenced pursuant to the provisions of Minnesota Statutes, ordinance 278, questioning the amount or validity of taxes, the City Council may, on application by the licensee, waive strict compliance with this provision; no waiver may be granted, however, for taxes, or any portion thereof, which remain unpaid for a period exceeding one year after becoming due unless such one-year period is extended through no fault of the licensee; or
- (f) A business that is in violation of one or more provisions of the municipal code related to its operations as an eligible business.

Section 6. Application Procedure. An application for a license shall be submitted and processed in accordance with this section.

Subd. 1. License Application. An application for a new or renewed license to sell edible cannabinoid products shall be made on a form provided by the City and filed, along with all required fees, with the City Clerk. The application shall contain the full name of the applicant, the applicant's residential and business addresses, and telephone numbers, the name of the business for which the license is sought, information to establish the business qualifies as an eligible business, a site plan for the business, and any additional information the City deems necessary. If the City Clerk determines an application is incomplete, the City Clerk shall provide the applicant notice of the information necessary to make the application complete. The City shall not process an application until it is made complete. Upon receipt of a completed application, the City Clerk shall forward the application to the Police Department to conduct a background investigation.

Subd. 2. Fees. No license shall be processed or issued under this ordinance until the appropriate fees have been paid in full. The fees for a license under this ordinance shall be established by City Council resolution.

Subd. 3. Manager or Agent. If the applicant is a firm, association, partnership, corporation, limited liability company, or joint venture, the application must include the name of the natural person who will serve as the manager or agent of the licensed premises. Such manager or agent must, by the terms of their written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. The manager or agent must reside within 75 miles of city hall. The required residency must be established by the time the license is issued and must be maintained throughout the existence of the license and all renewals. The time for establishing residency may be extended, for good cause, by the City Council. A licensee must notify the City in writing within 15 days of any change in such manager or agent indicating the name and address of the new manager or agent and the effective date of such change.

Subd. 4. License Decision. The City Council may grant or deny a license application. The City Council may also continue its consideration of a license if it determines it needs additional information before making its decision. Any of the following are grounds for denial or nonrenewal of a license.

- (a) The business does not qualify as an eligible business or is an ineligible business or operation under section 5 of this ordinance.
- (b) The applicant is under the age of 21 years old.
- (c) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to edible cannabinoid products or the operation of the eligible business.
- (d) The applicant has had a license to sell edible cannabinoid products, tobacco products, or liquor suspended or revoked during the 12 months preceding the date of application, or the applicant has or had an interest in another premises authorized to sell edible cannabinoid products, whether in the City or in another jurisdiction, that has had a license to sell edible cannabinoid products suspended or revoked during the same time period, provided the applicant had an interest in the premises at the time of the revocation or suspension, or at the time of the

violation that led to the revocation or suspension.

- (e) The applicant is the spouse, parent, stepparent, grandparent, brother, or sister, by blood or marriage, of a person ineligible for a license under this ordinance who the City Council determines is not the real party in interest or is not the beneficial owner of the business to be operated under the license.
- (f) The applicant is a business that does not have an operating manager or agent who is eligible pursuant to the provisions of this ordinance.
- (g) The applicant provides false or misleading information. Any false statement on an application, or any willful omission of any information called for on such application form, shall cause an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect upon written notice of the City.
- (h) The proposed location does not meet all applicable zoning requirements or requirements of this ordinance.
- (i) The applicant is prohibited by federal or state law, local ordinance, or other regulation, from holding such a license.
- (j) The applicant failed to provide information required by the application or provided false or misleading information.

Subd. 5. Term. All licenses issued under this ordinance shall expire on March 31 of each calendar year, unless it is revoked, suspended, or forfeited prior to that date.

Subd. 6. Renewal. An application to renew a license must be submitted at least 60 days prior to the expiration of the current license. The issuance of a license issued under this ordinance is a privilege and does not entitle the license holder to automatic renewal of the license.

Subd. 7. Non-Transferable. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.

Section 7. Operational Requirements.

Subd. 1. License Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 2. Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of edible cannabinoid products on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the licensee.

Subd. 3. Product Compliance. All edible cannabinoid products shall comply with the requirements of Minnesota Statutes, section 151.72 including, but not limited to, that they do

not contain more than 0.3 percent of any tetrahydrocannabinol, more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

Subd. 4. Product Display. All edible cannabinoid products shall be stored either: (a) behind a counter or other area not freely accessible to customers; or (b) in a case or other storage unit not left open and accessible to the general public.

Subd. 5. Age Posting. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where edible cannabinoid products are offered for sale. The required signage must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

Subd. 6. Age Verification. A licensee's employees shall verify by means of government issued photographic identification that any purchaser of an edible cannabinoid product is at least 21 years of age.

Subd. 7. Sales. Edible cannabinoid products may only be sold in a direct face-to-face exchange between the licensee's employee and the consumer. The licensee's employees selling edible cannabinoid products must be at least 21 years old. It shall be a violation of this ordinance for a licensee to give away, dispense, sell, or offer to sell any edible cannabinoid product in a manner that violates any of the following:

- (a) To a person under the age of 21 years old. It shall be an affirmative defense to the violation of this section for a person to have reasonably relied upon proof of age;
- (b) Through the use of a vending machine or similar automated dispensing device;
- (c) In a manner that does not comply with the requirements of Minnesota Statutes, section 151.72 including, but not limited to, the packaging, labeling, and other requirements provided by that section;
- (d) At any location outside of the licensed premises;
- (e) By self-service, or in open displays which are accessible to the public without the assistance or intervention of a store employee;
- (f) By a mobile business, including but not limited to motorized vehicles, moveable sales kiosks, or trailers. Licenses shall be issued to fixed location businesses only;
- (g) By delivery sales;
- (h) By any employee under the age of 21 years;
- (i) To a visibly intoxicated person;
- (j) By the means of providing samples of any edible cannabinoid product free of charge or at a nominal cost; or

- (k) To any other person, in any other manner or form prohibited by federal or state law or regulation, or by local ordinance.

Subd. 8. Inspections. The premises licensed under this ordinance must be open to inspection by any authorized representative of the City during regular business hours for purposes of ensuring compliance with this ordinance.

Subd. 9. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended by the City Council for a violation of any provision of this ordinance as provided herein.

Section 8. Other Prohibited Acts.

Subd. 1. Non-Compliant Products. No person shall sell or offer for sale a product containing THC, including edible cannabinoid products, that does not meet all the applicable requirements in Minnesota Statutes, section 151.72.

Subd. 2. Presumptions. Edible cannabinoid products shall comply with the labeling requirements in Minnesota Statutes, section 151.72, subdivision 5 and all other applicable labeling requirements. The City may presume, for the purposes of enforcing this ordinance, a edible cannabinoid product being offered for sale or that is sold by a licensee has been tested by an independent lab as required in Minnesota Statutes, section 151.72, subdivision 4 and that the information contained on the product label is accurate.

Subd. 3. Pricing and Discounts. No person shall accept or redeem any coupon, price promotion, or the instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any edible cannabinoid product to a consumer at no cost or at a price that is less than the non-discounted standard price listed by a retailer on the item or on any relates shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

Subd. 4. Purchase for Others. It is a misdemeanor violation of this ordinance for any person 21 years of age or older to purchase or otherwise obtain any edible cannabinoid product on behalf of a person under the age of 21.

Subd. 5. Under Aged Persons. It is a petty misdemeanor for any person under the age of 21 to do any of the following:

- (a) To attempt to disguise their true age by the use of a false form of identification, whether the identification is that of another person has been modified or tampered with to represent an age older than the actual age of the person using that identification;
- (b) To attempt to purchase edible cannabinoid products; or
- (c) To possess edible cannabinoid products. This prohibition does not apply to a licensee's employee who is handling edible cannabinoid products.

Section 9. Compliance Checks. The City may from time-to-time conduct unannounced compliance checks of licensed establishments. No person used in compliance checks may

attempt to use a form of identification that misrepresents the person’s age. All persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or their employee, and produce any identification, if any exists, for which they are asked. The City will conduct a compliance check that involves the participation of a person at least 18 years of age, but under the age of 21 to enter the licensed premises to attempt to purchase the edible cannabinoid products. Persons used for the purpose of compliance checks shall be supervised by law enforcement or other designated personnel. Nothing in this ordinance shall prohibit compliance checks authorized by state or federal laws for businesses manufacturing, storing, or selling edible cannabinoid products under any applicable federal or state law. The compliance checks authorized by this ordinance are in addition to any other compliance checks that may be performed related to the tobacco or liquor license held by an eligible business.

Section 10. License Actions.

Subd. 1. Basis for Action. The City may suspend, revoke, or nonrenew a license issued under this ordinance for any of the following reasons:

- (a) The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to the licensed activity, or has had a license to sell edible cannabinoid products, tobacco, or liquor revoked or suspended within the past five years;
- (b) Fraud, misrepresentation, bribery, or incorrect statement contained in the application for license, or made in carrying on the licensed activity;
- (c) Actions that are unauthorized or otherwise beyond the scope of the license granted;
- (d) Violation of any federal, state, or local regulation or provision;
- (e) Failure to continuously comply with all conditions required as part of the license;
- (f) Failure to comply with the applicable zoning code; or
- (g) Failure to pay an administrative penalty imposed by the City Council.
- (h) The City discovers the license was mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this ordinance.

Subd. 2. Process. The City will provide a licensee at least 10 days written notice of a hearing to be held before the City Council on the potential suspension, revocation, or nonrenewal of its license. The licensee shall be provided an opportunity to be heard at the hearing. If the City Council acts to suspend, revoke, or not renew the license, the City will provide the licensee a written notice of the period of suspension, or of the revocation or nonrenewal. All sales of edible cannabinoid products must cease during a suspension period or permanently upon revocation or nonrenewal of the license.

Section 11. Violation. Unless expressly indicated otherwise, a violation of this ordinance is a misdemeanor. The City may also impose administrative penalties on a licensee for violation of

this ordinance. Any administrative penalties may be imposed by the City Council, or by administrative citation, and shall be collected in accordance with the municipal code. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance.

Section 12. Severability and Savings. If any section or portion of this ordinance is found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Section 13. Effective Date and Term. This ordinance shall become effective on the first day of publication after adoption. This ordinance shall terminate and no longer be effective once the sale of edible cannabinoid products is no longer allowed except upon the issuance of a license to sell lower-potency hemp edibles by the Office of Cannabis Management under Minnesota Statutes, chapter 342.

Section 14. Incorporation. This ordinance incorporates by reference the sections or provisions of the municipal code as may be needed to give effect to the provisions of this ordinance and to otherwise carry out its intent.

Section 15. Not Codified. Because this ordinance has a limited duration, it will not be codified into the municipal code.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of _____ 2023.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

First Reading: _____

Initial Publication: _____

Second Reading: _____

Final Publication: _____

Posted on web: _____

RESOLUTION NO.

**A RESOLUTION APPROVING SUMMARY PUBLICATION OF
AN ORDINANCE REQUIRING A LICENSE AND IMPOSING REGULATIONS
ON THE RETAIL SALE OF EDIBLE CANNABINOID PRODUCTS**

WHEREAS, the City of White Bear Lake City Council adopted Ordinance No. _____
“An Ordinance Requiring a License and Imposing Regulations on the Retail Sale of Edible
Cannabinoid Products” (“Ordinance”) at its August 22, 2023 meeting; and

WHEREAS, the City Council may, pursuant to Ordinance No. 83-6-666, City Charter
Section 4.14, and Minnesota Statutes, section 412.191, subdivision 4, adopt a title and summary
of an ordinance for publication in lieu of publishing the entire text of a lengthy ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City of White Bear Lake City Council hereby
approves the following title and summary language for publication of the Ordinance:

**CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____**

**AN ORDINANCE REQUIRING A LICENSE AND IMPOSING REGULATIONS
ON THE RETAIL SALE OF EDIBLE CANNABINOID PRODUCTS**

The ordinance establishes licensing and regulations on the retail sale of edible cannabinoid
products derived from hemp as provided in Minnesota Statutes, Section 151.72.

BE IT FURTHER RESOLVED, that the City of White Bear Lake City Council hereby directs
the City Clerk to do each of the following:

1. Publish the approved summary language once in the City’s official newspaper;
2. Have available for inspection during regular office hours a copy of the entire Ordinance;
3. Place a copy of the entire Ordinance at the White Bear Lake Branch of the Ramsey County Public Library;
4. Obtain an affidavit of publication of the title and summary from the official newspaper and place it in the City’s ordinance book together with the Ordinance and a copy of this Resolution;
5. Post this Ordinance on the City’s website.

The foregoing resolution, offered by Councilmember _____ and supported by
Councilmember _____, was declared carried on the following vote:

Ayes:

RESOLUTION NO.

Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

Published one time in the White Bear Press on _____, 2023.



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Lindy Crawford, City Manager
From: Rick Juba, Assistant City Manger
Date: August 22, 2023
Subject: **White Bear Area Food Shelf Lease**

SUMMARY

The City Council will consider adopting a resolution authorizing the Mayor and City Manager to execute a lease agreement with the White Bear Area Food Shelf (WBAFS) at 2446 County Road F E.

BACKGROUND INFORMATION

The City owns commercial property at 2446 County Road F E which currently houses the White Bear Dance Center, Suburban Community Channels (SCC) and a Comcast Fiber hub. There are currently two vacant spaces which were formerly occupied by White Bear Drapery, Garden of Hope Montessori School and the White Bear Lake Area School District. The WBAFS plans to lease the two vacant spaces to be used for food distribution serving area neighbors experiencing food insecurity.

Currently, the WBAFS leases and operates out of the City's former Public Works building at 1884 Whitaker Street and that is not proposed to change. That space is used for warehousing, preparation, offices and distribution of food through a curb side pick-up program. Pre-COVID this space could adequately handle the in-person shopping model that the WBAFS believes in. The in-person shopping model allows customers to enter into a store front and select food in a manner that is very similar to the experience of visiting a grocery store. Demand has grown so much during and after COVID that the space at the current site is inadequate for in-person shopping. That has led the WBAFS to seek a second location where in-person shopping can be accommodated while they continue their search for a location that can house their entire operation. The space at 2446 County Road F E is large enough to allow for in-person shopping. This is a permitted use from a zoning perspective.

The proposed lease is a three-year agreement which starts at \$10.45 per square foot and escalates 3% each year of the agreement. The WBAFS will be responsible for all operating costs. Part of their remodeling will require a significant upgrade to the HVAC system. While this upgrade is being triggered by the WBAFS's needs, the current system is nearing the end of its useful life and the new system will be owned by the City. The WBAFS will pay for the HVAC upgrade up front but the associated costs are being credited against monthly lease amount over the three-year term of the lease. This approach is similar to the approach used when

Burger Bar renovated the space that they currently lease from the City.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution authorizing the Mayor and City Manager to execute a lease agreement with the White Bear Area Food Shelf at 2446 County Road F E.

ATTACHMENTS

Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH
WHITE BEAR AREA FOOD SHELF**

WHEREAS, the City owns commercial property located at 2446 County Road F E; and

WHEREAS, the White Bear Area Food Shelf proposes to lease the space as a second location and use it to distribute food to people experiencing food insecurity; and

WHEREAS, the City currently supports the White Bear Area Food Shelf through a lease agreement at 1884 Whitaker Street where the White Bear Area Food Shelf will continue to operate.

NOW, THEREFORE, BE IT RESOLVED, be it resolved, that the City Council of the City of White Bear Lake, that a lease between the White Bear Area Food Shelf and the City of White Bear Lake shall be approved with the following conditions:

Term: September 1, 2023 - August 31, 2026

Effective Date: September 1, 2023

Base Rent: \$10.45 per square foot with credit for building improvements.
3% increase to base rent per year of the agreement.
Monthly Rent September 1, 2023 - August 31, 2024: \$1,923.72
Monthly Rent September 1, 2024 - August 31, 2025: \$2,002.26
Monthly Rent September 1, 2025 - August 31, 2026: \$2,083.31

Utilities: Paid by White Bear Area Food Shelf

BE IT FURTHER RESOLVED, that the Mayor and City Manager are hereby authorized and directed to execute said lease on behalf of the City.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk



City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
Date: August 22, 2023
Subject: First Reading of an Ordinance Amending to 2023 Fee Schedule

SUMMARY

The City Council will conduct a first reading of an ordinance amending the 2023 Fee schedule for the addition of associated fees related to edible cannabinoid products.

BACKGROUND INFORMATION

At the August 22 regular meeting, the City Council will conduct a second reading and a vote for an ordinance requiring licensing and imposing regulations on the sale of edible cannabinoid products, as defined in Minnesota Statutes, Section 151.72. Should the Council adopt the ordinance, associated fees for an application, a license and administrative offenses need to be established. City staff has prepared an ordinance amending the fee schedule to incorporate the associated fees, and it will be presented as a first reading, pending the approval of the licensing ordinance.

The 2023 Fee Schedule, approved by City Council at its December 13, 2022 meeting, doesn't list any fees related to edible cannabinoid products. Proposed additions, to be added under Section II *Business Licenses* and Section VI *Administrative Offenses* are outlined below:

II	BUSINESS LICENSES	FEE	LAST ADJUSTED
	<u>Edible Cannabinoid Products License</u>	<u>\$125.00</u>	<u>September 2023</u>
	<u>Edible Cannabinoid Products Application and Background</u>	<u>\$500.00</u>	<u>September 2023</u>

VI	ADMINISTRATIVE OFFENSES	FEE	LAST ADJUSTED
	<u>H. Penalties for Edible Cannabinoid Sales</u>		
	<u>Underage consumption</u>	<u>\$50.00</u>	<u>September 2023</u>
	<u>Lending ID to underage person</u>	<u>\$100.00</u>	<u>September 2023</u>
	<u>License holder, first offense</u>	<u>\$150.00</u>	<u>September 2023</u>
	<u>License holder, second offense within 12 months</u>	<u>\$275.00</u>	<u>September 2023</u>
	<u>Other edible cannabinoid-related offenses</u>	<u>\$100.00</u>	<u>September 2023</u>

RECOMMENDATION

For its first reading, staff recommends the City Council consider the proposed ordinance amending the 2023 Fee Schedule as it relates to edible cannabinoid products. Following a second reading and public hearing scheduled for September 12, staff will ask the City Council to vote on the amended 2023 Fee Schedule.

ATTACHMENTS

Draft Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING THE 2023 FEE SCHEDULE OF THE WHITE BEAR LAKE CITY CODE TO ADD FEES RELATING TO EDIBLE CANNABINOID PRODUCTS

The Council of the City of White Bear Lake does ordain:

ARTICLE I. Purpose. The purpose of this ordinance is to incorporate associated fees related to edible cannabinoid products into the 2023 Fee Schedule.

ARTICLE II. Amended Fee Schedule. The 2023 Fee Schedule is hereby amended by adding the following, as shown in double underline:

II	BUSINESS LICENSES	FEE	LAST ADJUSTED
	<u>Edible Cannabinoid Products License</u>	<u>\$125.00</u>	<u>September 2023</u>
	<u>Edible Cannabinoid Products Application and Background</u>	<u>\$500.00</u>	<u>September 2023</u>

VI	ADMINISTRATIVE OFFENSES	FEE	LAST ADJUSTED
	<u>H. Penalties for Edible Cannabinoid Sales</u>		
	<u>Underage consumption</u>	<u>\$50.00</u>	<u>September 2023</u>
	<u>Lending ID to underage person</u>	<u>\$100.00</u>	<u>September 2023</u>
	<u>License holder, first offense</u>	<u>\$150.00</u>	<u>September 2023</u>
	<u>License holder, second offense within 12 months</u>	<u>\$275.00</u>	<u>September 2023</u>
	<u>Other edible cannabinoid-related offenses</u>	<u>\$100.00</u>	<u>September 2023</u>

Article III. Not Codified. This ordinance is transitory in nature and shall not be codified. The added fees established hereby shall be incorporated into the 2023 Fee Schedule, located on the City's website and available for inspection at the City Hall during usual office hours.

ARTICLE IV. Effective Date. This Ordinance shall become effective upon its passage, after second reading and publication.

ARTICLE V. General Provisions.

- (a) Applications for the retail sale of edible cannabinoid products submitted prior to the passing of this ordinance shall be subject to such fees before the license is issued.
- (b) City staff is authorized to incorporate the amendments approved herein into 2023 Fee Schedule of the City of White Bear Lake and to take such other actions as may be necessary to put the added fees into effect.

ORDINANCE NO.

The foregoing ordinance, offered by Councilmember _____ and supported by Councilmember _____, was adopted on the following vote:

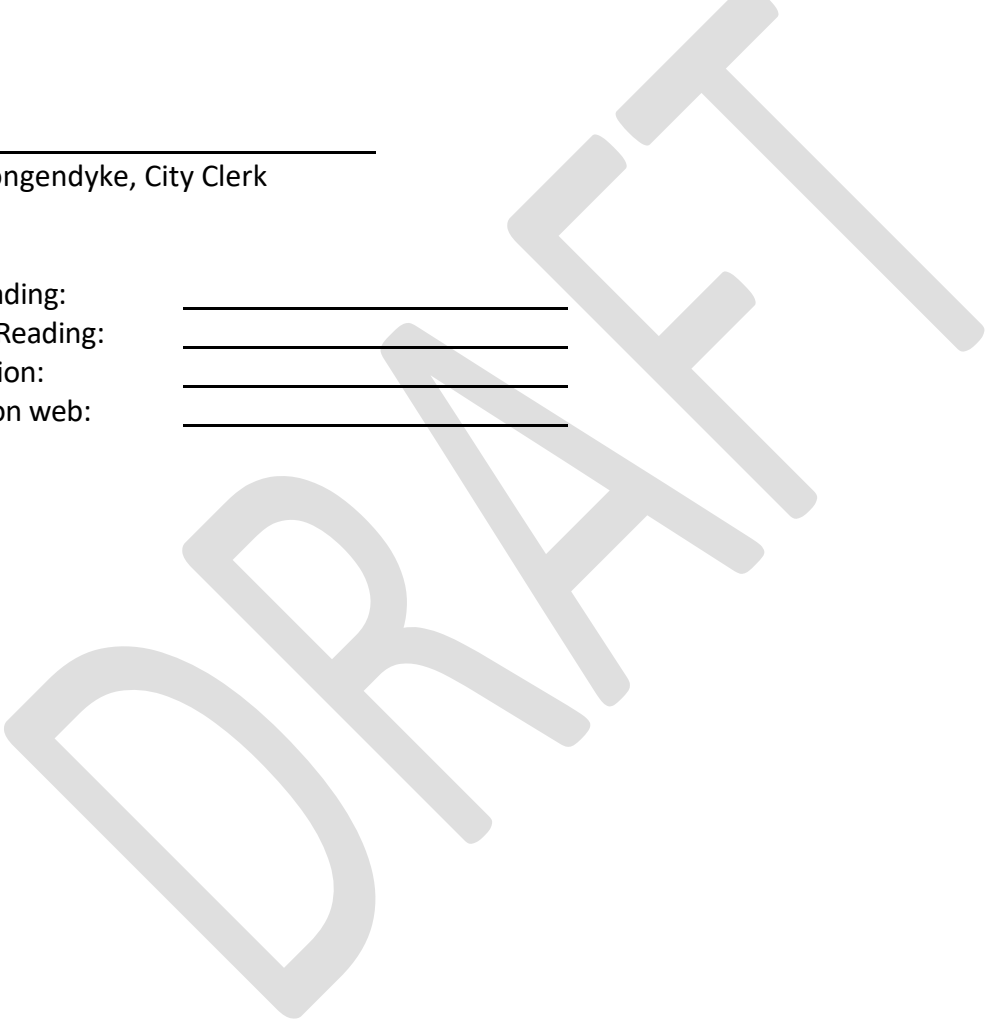
Ayes:
Nays:
Passed:

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

First Reading: _____
Second Reading: _____
Publication: _____
Posted on web: _____





City of White Bear Lake
City Manager's Office

MEMORANDUM

To: Mayor and City Council
From: Lindy Crawford, City Manager
 Troy Gilchrist, City Attorney
Date: August 22, 2023
Subject: **First Reading of an Ordinance Prohibiting the Use of Cannabis in Public Spaces**

SUMMARY

The City Council will conduct a first reading of an ordinance prohibiting the use of cannabis in public spaces within city limits. The second reading and public hearing of the ordinance is scheduled for the September 12 regular City Council meeting.

BACKGROUND INFORMATION

As part of the bill legalizing the use of cannabis, the Legislature did not prohibit the use of cannabis in public spaces. Instead, it gave authority to local units of government the right to do so – “A local unit of government may adopt an ordinance establishing a petty misdemeanor offense for a person who unlawfully uses cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place” Minn. Stat. § 152.0263, subd. 5. Use of cannabis involving the inhalation of smoke, aerosol, or vapor is prohibited at any location where smoking is prohibited under the Minnesota Clean Indoor Air Act. Minn. Stat. § 342.09, subd. 1(b)(3). There are other specific location prohibitions in the new law (such as public schools), but there is not a general prohibition on use in public places.

At the direction of City Council during the regular Council meeting on July 25, the City Attorney and staff prepared an ordinance prohibiting the use of cannabis in public spaces within city limits. Highlights of the ordinance include:

1. Definitions, including definitions of the public places in which the use of cannabis products is prohibited under the ordinance. The statute excludes certain places from being considered a public place, so the definition of public place expressly excludes those places. The focus is on places owned by governmental entities, not private places such as a store parking lot.
2. The ordinance prohibits the use of cannabis products in a public place.
3. The penalty prescribed by statute for a violation is a petty misdemeanor, but consistent with the Municipal Code the ordinance also states an administrative penalty may be imposed. The amount of administrative penalty is part of the proposed fee schedule amendment.
4. The ordinance is effective on the first day of publication of a summary.

RECOMMENDATIONS

Staff recommends the City Council conduct the first reading of the proposed ordinance prohibiting the use of cannabis in public spaces within city limits.

The second reading, public hearing, and potential adoption of the ordinance is scheduled for the September 12 regular City Council meeting.

ATTACHMENTS

Draft Ordinance

CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE MUNICIPAL CODE
OF THE CITY OF WHITE BEAR LAKE TO PROHIBIT THE
USE OF CANNABIS PRODUCTS IN PUBLIC PLACES**

The Council of the City of White Bear Lake does ordain:

ARTICLE I. Public Use Prohibition. Article VII, Chapter 703 of the Municipal Code of the City of White Bear Lake is hereby amended by adding a new Section 703.160 as follows:

§703.160 MISCELLANEOUS OFFENSES: USE OF CANNABIS PRODUCTS IN PUBLIC PLACES.

Subd. 1. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- A. Cannabis Product. “Cannabis product” means any of the following: cannabis flower; cannabis products; lower-potency hemp edibles; or hemp-derived consumer products, as each are defined in Minnesota Statutes, section 342.01.
- B. Park. “Park” means any public park, playground, sports field, open space, swimming pool, community center, or other recreational area or facility, including the grounds of any such facility.
- C. Parking Lot. “Parking lot” means any state, county, or city owned parking area that is made available to the public for parking.
- D. Public Place. “Public place” means any park, right-of-way, or parking lot. The term does not include any of the following: a private residence, including the person's curtilage or yard; private property not generally accessible by the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or the premises of an establishment or event licensed to permit on-site consumption.
- E. Right-of-Way. “Right-of-way” means the entire area within a public roadway, highway, street, alley, cartway, bicycle lane, trail, or public sidewalk.

Subd. 2. Prohibition. It is unlawful for a person to use a cannabis product in a public place within the city.

Subd. 3. Enforcement. A violation of this section is a petty misdemeanor. A violation of this section is also an administrative offense and is subject to an administrative penalty as provided in Chapter 205 of this Code.

ARTICLE II. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of September 2023.

Dan Louismet, Mayor

ATTEST:

Caley Longendyke, City Clerk

First Reading: _____

Initial Publication: _____

Second Reading: _____

Final Publication: _____

Codified: _____

Posted on web: _____