



**SPECIAL CITY COUNCIL WORKSESSION  
RICHFIELD MUNICIPAL CENTER, BARTHOLOMEW ROOM  
MAY 14, 2019  
5:00 PM**

Call to order

1. Key Financial Strategies and Council Goal Setting

Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**



**REGULAR CITY COUNCIL MEETING  
RICHFIELD MUNICIPAL CENTER, COUNCIL CHAMBERS  
MAY 14, 2019  
7:00 PM**

**INTRODUCTORY PROCEEDINGS**

Call to order

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

Pledge of Allegiance

Approval of the minutes of the: (1) Special City Council work session of April 23, 2019; (2) Regular City Council meeting of April 23, 2019; and (3) Special City Council work session of April 25, 2019.

**PRESENTATIONS**

1. Proclamation declaring June 4, 2019 as Lee Ann Wise Day in the city of Richfield
2. Proclamation declaring May 12-18, 2019 as National Police Week and May 15, 2019 as Peace Officers' Memorial Day in the city of Richfield
3. Richfield Police Department badge retirement ceremony

**COUNCIL DISCUSSION**

4. Hats Off to Hometown Hits

**AGENDA APPROVAL**

5. Approval of the Agenda
6. **Consent Calendar contains several separate items, which are acted upon by the City Council in one motion. Once the Consent Calendar has been approved, the individual items and recommended actions have also been approved. No further Council action on these items is necessary. However, any Council Member may request that an item be removed from the Consent Calendar and placed on the regular agenda for Council discussion and action. All items listed on the Consent Calendar are recommended for approval.**

- A. Consider adoption of a resolution authorizing the City to affirm the monetary limits on statutory municipality tort liability.

Staff Report No. 60

- B. Consider approval of a third amendment to the Site Lease Agreement at 7401 Logan Avenue South between the City of Richfield and Sprint Spectrum Realty Company, LLC with regard to the extension of

lease renewal terms.

Staff Report No. 61

- C. Consider approval of a Post-Issuance Debt Compliance Policy.

Staff Report No. 62

- D. Consider approval of the Public Works Department Water Service Shut-Off Policy.

Staff Report No. 63

- E. Consider approval of the Richfield Utility Box Wrapping Policy and adoption of a resolution of support for the selected photographs to be used to wrap the Hennepin County-owned utility boxes located at Penn Avenue & 66th Street and Nicollet Avenue & 70th Street.

Staff Report No. 64

- F. Consider approval of an annual request for a Temporary On Sale Intoxicating Liquor license for the Academy of Holy Angels, located at 6600 Nicollet Avenue South, for their annual Holy Angels Rock the Lawn event taking place Friday, June 21, 2019.

Staff Report No. 65

- G. Consider adoption of a resolution granting a Site Plan Approval and a Variance for a restaurant at 6433 Penn Avenue S.

Staff Report No. 66

7. Consideration of items, if any, removed from Consent Calendar

### **PROPOSED ORDINANCES**

8. Consider approval of a first reading of an Ordinance amending Zoning Code Section 537: Mixed Use Districts and Section 512: Districts

Staff Report No. 67

### **RESOLUTIONS**

9. Consider adoption of a resolution awarding the sale of \$8,865,000 General Obligation Bonds, Series 2019A.

Staff Report No. 68

### **OTHER BUSINESS**

10. Consider approval of a facility dedication request for a memorial garden dedicated to Gertrude Ulrich near the Richfield Band Shell.

Staff Report No. 69

### **CITY MANAGER'S REPORT**

11. City Manager's Report

### **CLAIMS AND PAYROLLS**

12. Claims and Payrolls

Open forum (15 minutes maximum)

***Each speaker is to keep their comment period to three minutes to allow sufficient time for others. Comments are to be an opportunity to address the Council on items not on the agenda. Individuals who wish to address the Council must have registered prior to the meeting.***

13. Adjournment

**Auxiliary aids for individuals with disabilities are available upon request. Requests must be made at least 96 hours in advance to the City Clerk at 612-861-9738.**



**CITY COUNCIL MEETING MINUTES**  
 Richfield, Minnesota  
**Special City Council Work Session**

**April 23, 2019**

**CALL TO ORDER**

The meeting was called to order by Mayor Regan Gonzalez at 6:00 p.m. in the Bartholomew Room.

Council Members Present: Maria Regan Gonzalez, Mayor; Edwina Garcia; Mary Supple; Simon Trautmann; and Ben Whalen.

Staff Present: Katie Rodriguez, City Manager; Jeff Pearson, City Engineer; Mary Tietjen, City Attorney; Elizabeth VanHoose, City Clerk; and Jared Voto, Assistant to the City Manager.

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| <b>Item #1</b> | <b>I-494 PROJECT LOCAL GOALS FOLLOW-UP</b> |
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City Engineer Pearson discussed the draft goals and specifically those that were changed or added based on comments made at the previous work session on April 9, 2019.

Council Members thanked staff for the update, incorporating the input received, and commented that this could be a practice incorporated in other processes.

City Engineer Pearson stated he would finalize the document.

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| <b>Item #2</b> | <b>PROPOSED CHANGES TO THE CITY OF RICHFIELD CHARTER</b> |
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City Manager Rodriguez discussed the purpose of the work session and an overview of the memo from City Attorney Tietjen.

City Clerk VanHoose discussed a handout on voter turn over the last four elections; three special and one regular. She also discussed the possibility of looking into adding a special election to a school board election, which are in odd years, in case the Council is interested in not waiting the two years.

Council Member Garcia asked about the cost of the most recent election.

City Clerk VanHoose stated she didn't have the latest numbers but it is comparable to the 2015 special election that cost approximately \$50,000.

Council Member Whalen commented about the cost of adding a special election to a normal election is under \$1,000.

City Clerk VanHoose concurred and stated the only cost would be the legal notices.

City Attorney Tietjen discussed the memo she prepared concerning this matter. She also discussed the process for the Charter Commission recommending a change of the charter to the City Council and then the Council would need to unanimously approve the changes for them to go into effect. Lastly, she discussed five points for the Council to consider in changes to the charter, of which three of them are mainly housekeeping items.

Council Member Whalen asked about going above and beyond in the notification of special elections, such as Facebook and our website.

City Clerk VanHoose and City Attorney Tietjen agreed those methods would still be used and the items listed in the charter would be more official postings for the newspaper and website and doesn't preclude any other notifications.

Council Member Trautmann thanked City Clerk VanHoose for her work on these recent special elections. He stated the path of the statutory cities seemed most clear.

City Attorney Tietjen further discussed the two larger policy considerations raised in her memo that have to do with the amount of time remaining in a term of office before a special election is required and appointment process and the appointment process.

Mayor Regan Gonzalez asked if at some cities there is a formal recognition if someone is appointed that they will not run for the seat in the next election.

City Attorney Tietjen was unsure if that is the case and the constitutionality of such a prohibition.

Council Member Garcia discussed her resignation from the City Council in 1985 when she was elected to the Minnesota House of Representatives and the issues that were raised when a vacancy wasn't declared by the Council. She also asked about the process to change the charter.

City Attorney Tietjen responded the Charter Commission makes a formal recommendation to the Council, similar to adopting an ordinance and other procedural requirements.

Council Member Garcia discussed the history of the Charter Commission including when members of the City Council were all elected at-large and not by ward, as is the case currently. She stated that the change to wards was voted on by the residents of Richfield.

Council Member Supple commented that she was in favor of extending the requirements for a special election from six months, as it is currently, to nine months or one year but thought an appointment for two years, as State law allows, was too long.

Council Member Garcia concurred with having it at one year.

Council Member Whalen discussed the difficulty separating the two issues of when a special election is required and also only holding them at the same time as a general election and asked for clarification on this.

City Attorney Tietjen responded you would have the option of holding the special election earlier but have the option of waiting until the next general election.

Council Member Trautmann asked for clarification if they would appoint an interim council member and then hold a special election on a general election date.

City Attorney Tietjen responded that is one option and that it is not required to wait until the next general election, but not a requirement, and a special election could be held on any of the dates allowed by State law.

Council Member Trautmann discussed having a special election outside of a general election date does not remove the administrative burden on the City Clerk's office.

City Attorney Tietjen discussed additional policy considerations before the Council and discussed the current provisions in the charter and asked if the Council was interested in adding flexibility by making appointments, as some other charters have available.

Council Member Supple asked if charters generally outline the procedure for making the appointment.

City Attorney Tietjen responded that most charters are more broad and do not get into that detail. She stated every city has its own process and up to the Council.

Council Member Supple commented that she would be in favor if it was less than 90 days the incoming official could start early, but was unsure if 30 days was enough time to interview people and make a selection.

City Manager Rodriguez commented that the vacancies occurring recently happen due to elections and having an appointment for 2 years coincides with the next general election, while there is a negative to this because it is a longer appointment. She stated if appointments were for a year or less it would not remove the administrative burden of needing a special election.

Mayor Regan Gonzalez summarized that a majority of Council agrees in revisiting changes to the charter to make something more efficient makes sense and felt that additional information and options may need to be brought forward to fully understand the implications of changes.

Council Member Whalen agreed and stated he is open to changes, including increasing the six months to one year, and suggested having a few options provided for changes to the charter and how those changes would have affected recent scenarios that we have had with special elections.

City Attorney Tietjen agreed and suggested having another meeting with different scenarios and commented that there appears to be support on the Council to move the six month restriction to at least one year and providing more flexibility.

City Manager Rodriguez stated that this would a good discussion and a number of Charter Commission members in attendance could take the information discussed and propose some changes or scenarios.

Mayor Regan Gonzalez thanked the Charter Commission for giving the input and commented it might be helpful to have the Charter Commission at the next work session on this topic.

**ADJOURNMENT**

The work session was adjourned by unanimous consent at 6:46 p.m.

Date Approved: May 14, 2019

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Maria Regan Gonzalez  
Mayor

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Jared Voto  
Assistant to the City Manager

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Katie Rodriguez  
City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Regular Meeting

April 23, 2019

### CALL TO ORDER

The meeting was called to order by Mayor Regan Gonzalez at 7:00 p.m. in the Council Chambers.

*Council Members Present:* Maria Regan Gonzalez, Mayor; Mary Supple; Edwina Garcia; Simon Trautmann; and Ben Whalen.

*Staff Present:* Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; Pam Dmytrenko, Administrative Services Director/Assistant City Manager; John Stark, Community Development Director; Rachel Lindholm, Minnesota GreenCorps Member; and Jared Voto, Assistant to the City Manager.

### OPEN FORUM

None.

### PLEDGE OF ALLEGIANCE

Mayor Regan Gonzalez led the Pledge of Allegiance.

### APPROVAL OF MINUTES

M/Garcia, S/Trautmann to approve the minutes of the: (1) Special City Council work session of April 9, 2019; and (2) Regular City Council meeting of April 9, 2019.

Motion carried 5-0.

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| <b>Item #1</b> | <b>METROPOLITAN COUNCIL REPRESENTATIVE MOLLY CUMMINGS</b> |
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Council Member Trautmann introduced Metropolitan Council District 5 Council Member Molly Cummings and invited her to speak.

Council Member Cummings introduced herself. She had formerly been the Mayor of the City of Hopkins and has joined the Metropolitan Council as representative for District 5. She stated she is

...serving on the Transportation Committee and Community Development Committee and discussed her excitement to build a relationship with Richfield.

Council Member Garcia welcomed Council Member Cummings to Richfield and looked forward to getting to know her and working with her in the future.

Mayor Regan Gonzalez thanked Council Member Cummings for her attendance and stated she looked forward to working together.

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| <b>Item #2</b> | <b>PROCLAMATION OBSERVING EARTH DAY, ARBOR DAY, AND ARBOR MONTH</b> |
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Rachel Lindholm thanked the approximately 45 council members, city staff, commissioners, and residents who came out to clean up Veterans Park today and discussed the interesting items that were picked up including a tire and fire extinguisher.

Mayor Regan Gonzalez read aloud a proclamation observing Earth Day, Arbor Day, and Arbor Month.

Council Member Garcia thanked Ms. Lindholm for her work on the Organics Task Force and sustainability for the City.

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| <b>Item #3</b> | <b>COUNCIL DISCUSSION</b> <ul style="list-style-type: none"> <li>• Hats Off to Hometown Hits</li> </ul> |
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Council Member Whalen spoke regarding attending the South Education Center's Art Fair this past weekend and was impressed by everything he saw; thanked all of the groups doing park clean-ups; and mentioned he started a monthly Ward 3 electronic newsletter and people can sign up by emailing or talking to him.

Council Member Supple spoke regarding the Minnesota Department of Revenue's Senior Citizens Property Tax Deferral program and listed the qualifications and encouraged those who qualified to participate in the program; Unity in the Community hosted by the Joint Community Police Partnership is on Sunday, May 5 from 2 to 5 p.m. at Veterans Park; MIRA is hosting their 4th Latina Women's Fair at House of Prayer Lutheran Church on Friday, May 10 from 5 to 8 p.m.; the 2019 Richfield Garden Club Plant and Gardeners Garage Sale is on May 18 and 19 at Richfield History Center Bartholomew House located at 69th and Lyndale; and the Annual South of the River Powwow hosted by the South Metro Indian Education Committee is on Saturday, May 18 at Burnsville High School and features a lot of Richfield dancers.

Council Member Garcia spoke regarding the Richfield Police Department is holding a drug takeback event on Saturday, April 27 from 10 a.m. to 2 p.m. at Richfield City Hall; and she attended the awards program for Transportation Resource to Aid Independent Living (TRAIL), an organization that provides transportation services for developmentally disabled adults and receives funding from the City through the social services program, on April 22 and received their TRAIL Blazer award on behalf of the City of Richfield.

Council Member Trautmann spoke regarding the Friends of Wood Lake dinner on Friday, April 26 and stated it's a great way to support Wood Lake; invited people to apply for naturalist internships, paid and unpaid, at the Wood Lake Nature Center; and discussed Sheridan Story, a non-profit

organization that provides food for children throughout the Twin Cities, including Richfield, who are food insecure and encouraged residents to find out more and volunteer.

Mayor Regan Gonzalez spoke regarding attending the League of Women Voters (LWV) annual meeting, along with Council Members Garcia and Supple, and invited other residents to get involved with the LWV civic activities, with their next meeting on Saturday, May 18 and people can get more information by emailing Maureen at [mascaglia@comcast.net](mailto:mascaglia@comcast.net); Open Streets at Penn Fest is on September 15 from 1 to 5 p.m. and is taking application on the City's website from organizations, businesses and community groups who are interested in participating in the event; the Richfield School District is looking for donations until May 31 for the 2019 Senior Class Party (the 50th anniversary) and you can contact Tina Lavin at [petinalavin@gmail.com](mailto:petinalavin@gmail.com) for donations; and thanked everyone who came out to the park clean-up today and the other groups that are cleaning up the parks.

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| <b>Item #4</b> | <b>APPROVAL OF THE AGENDA</b> |
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M/Whalen, S/Garcia to approve the agenda.

Motion carried 5-0.

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| <b>Item #5</b> | <b>CONSENT CALENDAR</b> |
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City Manager Rodriguez presented the consent calendar.

- A. Consider adoption of a resolution modifying a Health Care Savings Plan for International Association of Firefighters (IAF), Local 1215 bargaining unit employees. (S.R. No. 56)

RESOLUTION NO. 11621  
 RESOLUTION ESTABLISHING AN UPDATED AMENDED POST  
 EMPLOYMENT HEALTH CARE SAVINGS PLAN FOR FIREFIGHTER  
 EMPLOYEES (LOCAL 1215)

- B. Consider approval of a bid tabulation and award of a contract to Corrective Asphalt Materials, LLC for the 2019 Maltene Pavement Rejuvenation Project in the amount \$436,580, and authorize the City Manager to approve contract changes under \$175,000 without further City Council consideration. (S.R. No. 57)
- C. Consider approval of a proposal for Bolton & Menk to provide construction engineering services for the Lyndale Avenue Reconstruction Project for a fee not to exceed \$818,606. (S.R. No. 58)

M/Trautmann, S/Supple to approve the consent calendar.

Council Member Supple commented on that she appreciated the City offers the Health Care Savings Plan and was impressed by the quality control mechanisms outlined in Bolton & Menk's proposal.

Council Member Whalen agreed with Council Member Supple's comments on the Health Care Savings Plan and stated he was impressed with the community engagement efforts of Bolton & Menk.

Motion carried 5-0.

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| <b>Item #6</b> | <b>CONSIDERATION OF ITEMS, IF ANY, REMOVED FROM THE CONSENT CALENDAR</b> |
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None.

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| <b>Item #7</b> | <b>CONSIDER ADOPTION OF REVISIONS TO THE INCLUSIONARY HOUSING POLICY WITH REGARDS TO HOUSING AND REDEVELOPMENT AUTHORITY SCATTERED-SITE PROGRAMS. (S.R. NO. 59)</b> |
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Council Member Supple presented Staff Report No. 59.

M/Supple, S/Garcia to adopt a revised Inclusionary Housing Policy, clarifying language relating to the Housing and Redevelopment Authority's scattered-site housing programs.

Mayor Regan Gonzalez commented that this change makes sense to take into consideration not only new construction that is affordable but also improving existing housing and keeping it affordable over the long term.

Council Member Supple commented on an item that Housing and Redevelopment Authority Commissioner Pat Elliott highlighted at their meeting that non-housing development projects that receive financial assistance from the Housing and Redevelopment Authority, Economic Development Authority, or the City and might cause a loss of affordable housing and what will be done to either replace or mitigate the loss.

Council Member Whalen commented that he thought it made sense to include and prioritize rehab projects, especially in the current market, and thanked the Housing and Redevelopment Authority and staff for continuing to review and update the policy and viewing it as a working document as contexts, needs and options available to use continue to change.

Council Member Garcia commended Community Development Director Stark for his ability to pull together policies to respond to the housing challenges.

Community Development Director Stark thanked Council Members and commented he was glad that staff and policymakers are on the same page on these housing issues and have accomplished a lot in the last couple of years and reiterated these policies are living documents and require continuous review.

Council Member Trautmann added his support of this policy and stated there is no silver bullet to affordable housing, is glad homeownership part of the discussion and that housing/land trusts are a power tool that offers opportunities for families.

Motion carried 5-0.

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| <b>Item #8</b> | <b>CITY MANAGER'S REPORT</b> |
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City Manager Rodriguez stated she had nothing to report.

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| <b>Item #9</b> | <b>CLAIMS AND PAYROLLS</b> |
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M/Garcia, S/Supple that the following claims and payrolls be approved:

| <b>U.S. Bank</b>            | <b>04/23/19</b>   |
|-----------------------------|-------------------|
| A/P Checks: 276768 - 277160 | \$ 1,388,859.56   |
| Payroll: 144907 - 1445225   | <u>655,500.68</u> |
| TOTAL                       | \$ 2,044,360.24   |

Motion carried 5-0.

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| <b>OPEN FORUM</b> |
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None.

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| <b>Item #10</b> | <b>ADJOURNMENT</b> |
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The meeting was adjourned by unanimous consent at 7:50 p.m.

Date Approved: May 14, 2019

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Maria Regan Gonzalez  
Mayor

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Jared Voto  
Assistant to the City Manager

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Katie Rodriguez  
City Manager



# CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

## Special City Council Work Session

**April 25, 2019**

**CALL TO ORDER**

The meeting was called to order by Mayor Regan Gonzalez at 4:34 p.m. in the Heredia Room.

Council Members Present: Maria Regan Gonzalez, Mayor; Edwina Garcia; Mary Supple; Simon Trautmann; and Ben Whalen.

Staff Present: Katie Rodriguez, City Manager; Pam Dmytrenko, Assistant City Manager/Administrative Services Director; Amy Markle, Recreation Services Director; Bill Fillmore, Liquor Operations Director; Chris Regis, Finance Director; Jay Henthorne, Chief of Police/Public Safety Director; John Stark, Community Development Director; Kristin Asher, Public Works Director; Wayne Kewitsch, Fire Chief; and Jared Voto, Assistant to the City Manager.

Others Present: Scott Morrell, Rebar Leadership.

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| <b>Item #1</b> | <b>COUNCIL-STAFF RETREAT</b> |
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Scott Morrell, Rebar Leadership, lead a facilitated discussion with City Council and City staff that included a report back on identified themes from interviews and a survey, a simulation on ambiguity in communication, and discussion of behavior norms.

**ADJOURNMENT**

The work session was adjourned by unanimous consent at 8:32 p.m.

Date Approved: May 14, 2019

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Maria Regan Gonzalez  
Mayor

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Jared Voto  
Assistant to the City Manager

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Katie Rodriguez  
City Manager



**STAFF REPORT NO. 60**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Jesse Swenson, HR Manager

DEPARTMENT DIRECTOR REVIEW: Pam Dmytrenko, Administrative Services Director/Assistant City Manager  
4/10/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution authorizing the City to affirm the monetary limits on statutory municipality tort liability.**

**EXECUTIVE SUMMARY:**

The City purchases its liability insurance coverage from the League of Minnesota Cities Insurance Trust (LMCIT). Each year, the City must decide to either affirm or waive its statutory limits of liability by July 1. After reviewing cost considerations measured against potential risk, the City has, historically, affirmed the liability limits which are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Staff is recommending the same course of action for the upcoming insurance renewal.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution authorizing the City Council to affirm the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- A requirement of insurance coverage through the LMCIT is an annual affirmation or waiver of statutory limits of liability.
- The current statutory limits of liability for Minnesota cities are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Cities can waive these limits to allow an individual claimant to recover more than \$500,000, up to the \$1,500,000 per occurrence limit, if excess liability insurance is purchased. However, the cost of the excess liability insurance continues to be very expensive. An additional \$1,000,000 of coverage would cost the City approximately \$65,000 annually.
- Slightly more than half of the cities in Minnesota do not waive its limits of liability.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The State Statute establishes liability limits for cities and the current level is \$1,500,000, which appears to be a reasonable limit.
- Historically, the majority of municipalities in Minnesota do not waive the monetary limits on municipality tort liability as was established by Statutes 466.04.

- The Council could waive its statutory limits in future years if a decision was made to do so.
- The Council may also wish to consider purchasing excess liability in the future. If this is the case it may be purchased at any point in the future.

**C. CRITICAL TIMING ISSUES:**

- The City's insurance policy with the League of Minnesota Cities Insurance Trust will renew on July 1, 2019. This action must be completed on, or before that time.

**D. FINANCIAL IMPACT:**

- The City has historically not purchased excess liability coverage because of the cost of such coverage. The annual premium for \$1 million of coverage would be between \$65,000 and \$75,000 if the City decided to waive its liability limits.

**E. LEGAL CONSIDERATION:**

- The tort liability limits established by Minnesota Statutes have historically protected cities and no Minnesota court has ever established a monetary award in excess of the statutory limits against a municipality.
- Each city must annually decide whether the city would voluntarily waive the statute for both the single claims and each occurrence limit.

**ALTERNATIVE RECOMMENDATION(S):**

- If the Council determines that any single claimant should receive more than the \$500,000 limit, the Council could elect to waive the statutory monetary limits.
- If the Council determines that the \$1,500,000 per occurrence limit is not adequate, the City could purchase excess liability coverage.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

|   | Description | Type              |
|---|-------------|-------------------|
| □ | Resolution  | Resolution Letter |

**RESOLUTION NO.**

**RESOLUTION AFFIRMING MUNICIPAL TORT LIABILITY LIMITS ESTABLISHED BY  
MINNESOTA STATUTES 466.04**

**WHEREAS**, Minnesota Statute 466.04 provides for Municipal tort liability limits for Minnesota cities; and

**WHEREAS**, the League of Minnesota Cities Insurance Trust has asked that each city review the tort liability limits and determine if the respective city would choose to waive its limits; and

**WHEREAS**, such decision to affirm or waive the tort liability limits must be filed with the League of Minnesota Cities Insurance Trust at the insurance renewal date.

**NOW, THEREFORE, BE IT RESOLVED** that the City Manager is directed to report to the League of Minnesota Cities Insurance Trust that the Richfield City Council does not waive the monetary limits on the municipal tort liability established by Minnesota statutes 466.04.

Adopted by the City Council of the City of Richfield, Minnesota this 14<sup>th</sup> day of May, 2019.

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Maria Regan Gonzalez, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk



**STAFF REPORT NO. 61**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Chris Regis, Finance Director

DEPARTMENT DIRECTOR REVIEW: Chris Regis, Finance Director  
4/9/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of a third amendment to the Site Lease Agreement at 7401 Logan Avenue South between the City of Richfield and Sprint Spectrum Realty Company, LLC with regard to the extension of lease renewal terms.**

**EXECUTIVE SUMMARY:**

On May 24, 1999, the City of Richfield entered into a Site Lease Agreement with Sprint Spectrum LP (Tenant) at the 7401 Logan Avenue South location.

The original Site Lease Agreement allowed the Tenant to erect a cellular telephone antenna system on the City water tower located at the 7401 Logan Avenue South location.

The original lease contained four (4) five-year renewal periods with the first period commencing on June 1, 1999 and ending on December 31, 2004. At the present time, the lease is in the final five-year period with the lease set to expire on December 31, 2019.

The tenant now desires to extend the lease renewal terms for three (3) additional five-year renewal periods commencing on January 1, 2020. Each additional renewal term will be deemed automatically exercised without any action by either party unless tenant gives written notice of its decision not to exercise any options to the landlord before expiration of the current term.

The annual rent will commence on January 1, 2020 and will be \$36,265.61. The annual rent will increase annually each January 1 by 4%.

**RECOMMENDED ACTION:**

**By motion: Approve the third amendment to the Site Lease Agreement at the 7401 Logan Avenue South location between the City of Richfield and Sprint Spectrum Realty Company, LLC with regard to the extension of Lease Renewal Terms.**

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- The original Site Lease Agreement allowed the Tenant to erect a maximum of six cellular telephone

antennas on the Logan Avenue water tower.

- On November 13, 2012, a First Amendment to the Site Lease agreement was approved by the City Council. This amendment involved the modification of the site by upgrading its antennas, equipment, and equipment shelter. At the end of the upgrade, the tenant removed the original six antennas and installed three new antennas and three remote radio units.
- On June 23, 2015, a Second Amendment to the Site Lease agreement was approved by the City Council. This amendment involved the tenant increasing the number of antennas on the site from three to six and installing three more remote radio units.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- N/A

**C. CRITICAL TIMING ISSUES:**

- The existing Site Lease Agreement is set to expire on December 31, 2019. The Tenant has expressed a desire to continue the Site Lease Agreement with the City.

**D. FINANCIAL IMPACT:**

- The annual rent commencing on January 1, 2020 will be \$36,265.61. The annual rent amount will increase 4% each January 1.

**E. LEGAL CONSIDERATION:**

- The City Attorney has reviewed the third amendment to the Site Lease Agreement.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

|   | Description  | Type               |
|---|--|--------------------|
| ▢ | Third Amendment Site Lease Agreement Between the City and Sprint | Contract/Agreement |

**THIRD AMENDMENT  
TO SITE LEASE AGREEMENT AND EXTENSION  
OF LEASE RENEWAL TERMS**

**BETWEEN THE CITY OF RICHFIELD  
AND SPRINT SPECTRUM REALTY COMPANY, LLC**

This Third Amendment to Site Lease Agreement (“**Third Amendment**”) is made and entered effective the \_\_\_\_\_ day of January, 2019, by and between **City of Richfield, a Minnesota municipal corporation (“Landlord”)**, whose address is 6700 Portland Avenue South, Richfield, Minnesota 55423, and **Sprint Spectrum Realty Company, LLC, a Delaware limited liability company (“Tenant”)**, whose address is Sprint Property Services, 6391 Sprint Parkway Overland Park, KS 66251-2650.

RECITALS

- A. Landlord and Tenant, or its predecessor in interest, Sprint Spectrum L.P., a Delaware limited partnership, entered into a Site Lease Agreement dated May 24, 1999, a First Amendment to Site Lease Agreement dated November 13, 2012, and a Second Amendment to Site Lease Agreement dated June 30, 2015 (together, “Lease”);
- B. The Lease permits Tenant to install certain facilities on and adjacent to the water tower located at 7401 Logan Avenue South, Hennepin County, Minnesota (“Structure”);
- C. As of the date of this Third Amendment, the antennas, equipment, equipment shelter and other facilities that Tenant is permitted to install and maintain on the Structure and Leased Premises is described and depicted in Exhibit B-2 to the Lease (appended to the Second Amendment);
- D. Landlord and Tenant mutually desire to amend the Lease to provide for additional extension terms beyond the current December 31, 2019 expiration date.

AGREEMENT

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Term and Renewals. The current term of the Lease expires on December 31, 2019. Subject to the terms and conditions of the Lease, Tenant may extend the term of the Lease for three (3) additional five (5) year renewal periods (each an “**Additional Renewal Term(s)**”) commencing on January 1, 2020. Each Additional Renewal Term will be deemed automatically exercised without any action by either party unless Tenant gives written notice of its decision not to exercise any option(s) to Landlord before expiration of the then current term. All references in the Agreement to Renewal Terms shall include the Additional Renewal Term(s).

Paragraph 4 of the Lease is amended accordingly.

2. Rent. Notwithstanding anything contained in the Lease to the contrary, commencing on January 1, 2020, the annual rent shall be Thirty-Six Thousand Two Hundred Sixty-Five and 61/100 Dollars (\$36,265.61). Commencing on January 1, 2021 and on each January 1 thereafter, the annual rent shall escalate in accordance with the terms of Paragraph 2(a) of the Lease. Paragraph 2(a) of the Lease is amended accordingly.

3. Landlord Costs. Within thirty (30) days following the full execution of this Third Amendment, Tenant shall pay Landlord the one-time sum of Five Hundred and No/100 Dollars (\$500.00) for costs associated with preparing this document including but not limited to attorney's fees, staff and administrative review time and third party consultant fees and expenses.

4. Miscellaneous.

- a. Except as specifically modified by this Third Amendment, all terms and conditions of the Lease remain in full force and effect and are hereby ratified. In the event of a conflict between any term or provision of the Lease and this Third Amendment, the Third Amendment shall control.
- b. All capitalized terms in this Third Amendment, unless otherwise defined herein, will have the same meaning as the terms contained in the Lease.
- c. This Third Amendment may be executed in duplicate counterparts, each of which will be deemed an original.
- d. Each party represents and warrants that it has the right, power, legal capacity and authority to enter into its respective obligations under this Third Amendment.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Third Amendment to be executed by each party's duly authorized representative on the date written below.

**LANDLORD:**

**City of Richfield,  
a Minnesota municipal corporation**

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Manager

Date: \_\_\_\_\_

**TENANT:**

**Sprint Spectrum Realty Company, LLC,  
a Delaware limited liability company**

By: \_\_\_\_\_  
Silvia J. Lin

Its: Manager, Real Estate

Date: \_\_\_\_\_

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**STAFF REPORT NO. 62**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Chris Regis, Finance Director

DEPARTMENT DIRECTOR REVIEW: Chris Regis, Finance Director  
4/22/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of a Post-Issuance Debt Compliance Policy.**

**EXECUTIVE SUMMARY:**

With the issuance of financial obligations, there are applicable federal regulations that the City must adhere and comply with subsequent to issuance of those obligations.

The City desires to monitor these obligations to ensure compliance with the Internal Revenue Service (IRS) Code, Treasury Regulations, and Securities and Exchange (SEC) Rules. To help ensure compliance, the City has developed a post-issuance debt compliance policy, which shall apply to all obligations that are subject to compliance.

The Finance Director will be responsible for ensuring post-issuance compliance of all applicable obligations and for maintaining all relevant documentation, records and activities required to ensure post-issuance debt compliance.

It is a sound management and financial practice for the City to monitor their debt obligations to ensure compliance with the IRS Code, Treasury Regulations and SEC Rules. The policy and procedures have been drafted to help ensure compliance.

The City last approved a post-issuance debt compliance policy on July 24, 2012; however, since that time, there have been changes to federal regulations and an update to the policy is warranted.

**RECOMMENDED ACTION:**

**By motion: Approve the Post-Issuance Debt Compliance Policy.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The Internal Revenue Service (IRS) is responsible for enforcing compliance with IRS Code and Treasury Regulations with regard to the issuance of certain debt issuances made by governmental entities.
- The Securities and Exchange Commission (SEC) is responsible for enforcing compliance with

the SEC Rule 15c2-12 (the "Rule"). The Rule is enforced in the secondary marketplace, for investors, in an effort to provide transparency necessary to make an informed decision when purchasing a municipal security versus a corporate security. The Rule is necessary as municipal financings are not free from ongoing financial difficulties including the risk of direct default.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The IRS, SEC, National Association of Bond Lawyers, Government Finance Officers Association, and bond rating agencies encourage governmental entities to adopt and implement a post-issuance debt compliance policy.
- It is the practice of the City of Richfield to follow established financial policies governing the City's practices related to fiscal management and debt management.

**C. CRITICAL TIMING ISSUES:**

- None

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- None

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

|   | Description                              | Type    |
|---|--|---------|
| ☐ | Post-Issuance Debt Compliance Policy     | Exhibit |
| ☐ | Post-Issuance Debt Compliance Procedures | Exhibit |

# **Post-Issuance Debt Compliance Policy**

City of Richfield

Financial Policy

Date: May 14, 2019

Subject: Post-Issuance Debt Compliance Policy

## **Introduction**

The City Council (the “Council”) of the City of Richfield, Minnesota (the “City”) has chosen, by policy, to take steps to help ensure that all obligations will be in compliance with all applicable federal regulations. This policy may be amended, as necessary, in the future.

## **IRS Background**

The Internal Revenue Service (IRS) is responsible for enforcing compliance with the Internal Revenue Code (the “Code”) and regulations promulgated thereunder (“Treasury Regulations”) governing certain obligations (for example: tax-exempt obligations, Build America Bonds, Recovery Zone Development Bonds and various “Tax Credit” Bonds). The IRS encourages issuers and beneficiaries of these obligations to adopt and implement a post-issuance debt compliance policy and procedures to safeguard against post-issuance violations.

## **SEC Background**

The Securities and Exchange Commission (SEC) is responsible for enforcing compliance with the SEC Rule 15c2-12 (the “Rule”). Governments or governmental entities issuing obligations generally have a requirement to meet specific continuing disclosure standards set forth in continuing disclosure agreements (“CDA”). Unless the issuer, obligated person, or a specific obligation is exempt from compliance with CDAs, these agreements are entered into at the time of obligation issuance to enable underwriter(s) to comply with the Rule. The Rule sets forth certain obligations of (i) underwriters to receive, review and disseminate official statements prepared by issuers of most primary offerings of municipal securities, (ii) underwriters to obtain CDAs from issuers and other obligated persons to provide material event disclosure and annual financial information on a continuing basis, and (iii) broker-dealers to have access to such continuing disclosure in order to make recommendations of municipal securities transactions in the secondary market. The SEC encourages issuers and beneficiaries adopt and implement a post-issuance debt compliance policy and procedures to safeguard against Rule violations.

When obligations are issued, the CDA commits the issuer or obligated person to provide certain annual financial information and material event notices to the public. Issuers and other obligated persons may also choose to provide periodic, voluntary financial information and filings to investors in addition to fulfilling the specific

responsibilities delineated in their CDA. It is important to note that issuers and other obligated persons should not give any one investor certain information that is not readily available to all market participants by disseminating information to the marketplace, at large. Issuers and other obligated persons should be aware that any disclosure activities determined to be “communicating to the market” can be subject to regulatory scrutiny.

### **Post-Issuance Debt Compliance Policy Objective**

The City desires to monitor these obligations to ensure compliance with the IRS Code, Treasury Regulations and the SEC Rule. To help ensure compliance, the City has developed the following policy (the “Post-Issuance Debt Compliance Policy”). The Post-Issuance Debt Compliance Policy shall apply to the obligations mentioned above, including bonds, notes, loans, lease purchase contracts, lines of credit, commercial paper or any other form of debt that is subject to compliance.

### **Post-Issuance Debt Compliance Policy**

The Finance Director of the City is designated as the City’s agent who is responsible for post-issuance compliance of these obligations.

The Finance Director shall assemble all relevant documentation, records and activities required to ensure post-issuance debt compliance as further detailed in corresponding procedures (the “Post-Issuance Debt Compliance Procedures”). At a minimum, the Post-Issuance Debt Compliance Procedures for each qualifying obligation will address the following:

1. General Post-Issuance Compliance
2. General Recordkeeping
3. Arbitrage Yield Restriction and Rebate Recordkeeping
4. Expenditure and Asset Documentation to be Assembled and Retained
5. Miscellaneous Documentation to be Assembled and Retained
6. Additional Undertakings and Activities that Support Sections 1 through 5 above
7. Continuing Disclosure Obligations
8. Compliance with Future Requirements

The Finance Director shall apply the Post-Issuance Debt Compliance Procedures to each qualifying obligation and maintain a record of the results. Further, the Finance Director will ensure that the Post-Issuance Debt Compliance Policy and Procedures are updated on a regular and as needed basis.

The Finance Director or any other individuals responsible for assisting the Finance Director in maintaining records needed to ensure post-issuance debt compliance, are authorized to expend funds as needed to attend training or secure use of other educational resources for ensuring compliance such as consulting, publications, and compliance assistance.

Most of the provisions of this Post-Issuance Debt Compliance Policy are not applicable to taxable governmental obligations unless there is a reasonable possibility that the City may refund their taxable governmental obligation, in whole or in part, with the proceeds of a tax-exempt governmental obligation. If this refunding possibility exists, then the Finance

Director shall treat the taxable governmental obligation as if such issue were an issue of tax-exempt governmental obligations and comply with the requirements of this Post-Issuance Debt Compliance Policy.

**Private Activity Bonds**

The City may issue tax-exempt obligations that are “private activity” bonds because either (1) the bonds finance a facility that is owned by the City but used by one or more qualified 501(c)(3) organizations, or (2) the bonds are so-called “conduit bonds”, where the proceeds are loaned to a qualified 501(c)(3) organization or another private entity that finances activities eligible for tax-exempt financing under federal law (such as certain manufacturing projects and certain affordable housing projects). Prior to the issuance of either of these types of bonds, the Finance Director shall take steps necessary to ensure that such obligations will remain in compliance with the requirements of this Post-Issuance Debt Compliance Policy.

In a case where compliance activities are reasonably within the control of a private party (i.e., a 501(c)(3) organization or conduit borrower), the Finance Director may determine that all or some portion of compliance responsibilities described in this Post-Issuance Debt Compliance Policy shall be assigned to the relevant party. In the case of conduit bonds, the conduit borrower will be assigned all compliance responsibilities other than those required to be undertaken by the City under federal law. In a case where the Finance Director is concerned about the compliance ability of a private party, the Finance Director may require that a trustee or other independent third party be retained to assist with record keeping for the obligation and/or that the trustee or such third party be responsible for all or some portion of the compliance responsibilities.

The Finance Director is additionally authorized to seek the advice, as necessary, of bond counsel and/or its financial advisor to ensure the City is in compliance with this Post-Issuance Debt Compliance Policy.

Adopted this date May 14,2019 by the City of Richfield, Minnesota

**City of Richfield, Minnesota**  
**Post-Issuance Debt Compliance Procedures**

The City Council (the “Council”) of the City of Richfield, Minnesota (the “City”) has adopted the attached Post-Issuance Debt Compliance Policy dated May 14, 2019. The Post-Issuance Debt Compliance Policy applies to qualifying debt obligations issued by the City. As directed by the adoption of the Post-Issuance Debt Compliance Policy, the Finance Director of the City will perform the following Post-Issuance Debt Compliance Procedures for all of the City’s outstanding debt.

1) General Post-Issuance Compliance

- a) Ensure written procedures and/or guidelines have been put in place for individuals to follow when more than one person is responsible for ensuring compliance with Post-Issuance Debt Compliance Procedures.
- b) Ensure training and/or educational resources for post-issuance compliance have been approved and obtained.
- c) The Finance Director understands that there are options for voluntarily correcting failures to comply with post-issuance compliance requirements (e.g. as remedial actions under Section 1.141-12 of the Treasury Regulations and the ability to enter into a closing agreement under the Tax-Exempt Bonds Voluntary Closing Agreement Program described in Notice 2008-31 (the “VCAP Program”).

2) General Recordkeeping

- a) Retain records and documents for the obligation and all obligations issued to refund the obligation for a period of at least seven years following the final payment of the obligation. If an obligation is refunded, then the final payment of the refunding obligation becomes the beginning of the period unless otherwise directed by the City’s bond counsel.
- b) Retain electronic (preferred) and/or paper versions of records and documents for the obligation.
- c) General records and documentation to be assembled and retained:
  - i) Description of the purpose of the obligation (i.e. the project or projects) and the state statute authorizing the project.
  - ii) Record of tax-exempt status or revocation of tax-exempt status, if applicable.
  - iii) Any correspondence between the City and the IRS.
  - iv) Audited financial statements.
  - v) All accounting audits of property financed by the obligation.
  - vi) Obligation transcripts, official statements, and other offering documents of the obligation.
  - vii) Minutes and resolutions authorizing the issuance of the obligation.
  - viii) Certifications of the issue price of the obligation.

- ix) Any formal elections for the obligation (i.e. an election to employ an accounting methodology other than the specific tracing method).
  - x) Appraisals, demand surveys, or feasibility studies for property financed by the obligation.
  - xi) All information reports filed for the obligations.
  - xii) All management contracts and other service agreements, research contracts, and naming rights contracts.
  - xiii) Documents related to governmental grants associated with construction, renovation or purchase of property financed by the obligation.
  - xiv) Reports of any prior IRS examinations of the City or the City's obligation.
  - xv) All correspondence related to the above (faxes, emails, or letters).
- 3) Arbitrage Yield Restriction and Rebate Recordkeeping
- a) Investment and arbitrage documentation to be assembled and retained:
    - i) An accounting of all deposits, expenditures, interest income and asset balances associated with each fund established in connection with the obligation. This includes an accounting of all monies deposited to the debt service fund to make debt service payments on the obligation, regardless of the source derived. Accounting for expenditures and assets is described in further detail in Section 4.
    - ii) Statements prepared by Trustee and/or Investment Provider.
    - iii) Documentation of at least quarterly allocations of investments and investment earnings to each obligation.
    - iv) Documentation for investments made with obligation proceeds such as:
      - (1) investment contracts (i.e. guaranteed investment contracts),
      - (2) credit enhancement transactions (i.e. obligation insurance contracts),
      - (3) financial derivatives (e.g. swaps, caps, and collars), and
      - (4) bidding of financial products:
        - (a) Investments acquired with obligation proceeds are purchased at fair market value (e.g. three bid safe harbor rule for open market securities needed in advance refunding escrows).
  - b) Computations of the arbitrage yield.
  - c) Computations of yield restriction and rebate amounts including but not limited to:
    - i) Compliance in meeting the "Temporary Period from Yield Restriction Exception" and limiting the investment of funds after the temporary period expires.
    - ii) Compliance in meeting the "Rebate Exception."
      - (1) qualifying for the "Small Issuer Exception,"
      - (2) qualifying for a "Spending Exception,"
        - (a) 6-Month Spending Exception
        - (b) 18-Month Spending Exception
        - (c) 24-Month Spending Exception
      - (3) qualifying for the "Bona Fide Debt Service Fund Exception," and

- (4) quantifying arbitrage on all funds established in connection with the obligation in lieu of satisfying arbitrage exceptions including reserve funds and debt service funds.
  - d) Computations of yield restriction and rebate payments.
  - e) Timely Tax Form 8038-T filing, if applicable.
    - i) Remit any arbitrage liability associated with the obligation to the IRS at each five-year anniversary date of the obligation, and the date in which the obligation is no longer outstanding (redemption or maturity date), whichever comes sooner, within 60 days of said date.
  - f) Timely Tax Form 8038-R filing, if applicable.
    - i) Remit the form after the date in which the obligation is no longer outstanding (redemption or maturity date), whichever comes sooner, within 2 years of said date.
  - g) Procedures or guidelines for monitoring instances where compliance with applicable yield restriction requirements depends on subsequent reinvestment of obligation proceeds in lower yielding investments (e.g. reinvestment in zero coupon SLGS).
- 4) Expenditure and Asset Documentation to be Assembled and Retained
- a) Documentation of allocations of obligation proceeds to expenditures (e.g. allocation of proceeds to expenditures for the construction, renovation or purchase of facilities owned and used in the performance of exempt purposes).
    - i) Such allocation will be done not later than the earlier of:
      - (1) eighteen (18) months after the later of the date the expenditure is paid, or the date the project, if any, that is financed by the obligation is placed in service; or
      - (2) the date sixty (60) days after the earlier of the fifth anniversary of the issue date of the obligation, or the date sixty (60) days after the retirement of the obligation.
  - b) Documentation of allocations of obligation proceeds to issuance costs.
  - c) Copies of requisitions, draw schedules, draw requests, invoices, bills, and cancelled checks related to obligation proceed expenditures during the construction period.
  - d) Copies of all contracts entered into for the construction, renovation or purchase of facilities financed with obligation proceeds.
  - e) Records of expenditure reimbursements incurred prior to issuing obligations for projects financed with obligation proceeds (declaration of official intent/reimbursement resolutions including all modifications).
  - f) List of all facilities and equipment financed with obligation proceeds.
  - g) Depreciation schedules for depreciable property financed with obligation proceeds.

- h) Documentation that tracks the purchase and sale of assets financed with obligation proceeds.
- i) Documentation of timely payment of principal and interest payments on the obligation.
- j) Tracking of all issue proceeds and the transfer of proceeds into the debt service fund as appropriate.
- k) Documentation that excess earnings from a Reserve Fund are transferred to the Debt Service Fund on an annual basis. Excess earnings are balances in a Reserve Fund that exceed the Reserve Fund requirement.

5) Miscellaneous Documentation to be Assembled and Retained

- a) Ensure that the project, while the obligation is outstanding, will avoid IRS private activity concerns.
- b) The Finance Director shall monitor the use of all obligation-financed facilities in order to:
  - i) Determine whether private business uses of obligation-financed facilities have exceeded the *de minimus* limits set forth in Section 141(b) of the Code as a result of:
    - (1) sale of the facilities;
    - (2) sale of City capacity rights;
    - (3) leases and subleases of facilities including easements or use arrangements for areas outside the four walls (e.g. hosting of cell phone towers);
    - (4) leasehold improvement contracts, licenses, management contracts in which the City authorizes a third party to operate a facility (e.g. cafeteria);
    - (5) research contracts;
    - (6) preference arrangements in which the City permits a third-party preference (e.g. parking in a public parking lot, joint ventures, limited liability companies or partnership arrangements);
    - (7) output contracts or other contracts for use of utility facilities including contracts with large utility users;
    - (8) development agreements which provide for guaranteed payments or property values from a developer;
    - (9) grants or loans made to private entities including special assessment agreements;
    - (10) naming rights agreements; and
    - (11) any other arrangements that provide special legal entitlements to nongovernmental persons.
  - ii) Determine whether private security or payments that exceed the *de minimus* limits set forth in Section 141(b) of the Code have been provided by nongovernmental persons with respect to such obligation-financed facilities.

- c) The Finance Director shall provide training and educational resources to any City staff that have the primary responsibility for the operation, maintenance, or inspection of obligation-financed facilities with regard to the limitations on the private business use of obligation-financed facilities and as to the limitations on the private security or payments with respect to obligation-financed facilities.
  - d) The City shall undertake the following with respect to the obligations:
    - i) An annual review of the books and records maintained by the City with respect to such obligations.
    - ii) An annual physical inspection of the facilities financed with the proceeds of such obligations, conducted by the Finance Director with the assistance of any City staff who have the primary responsibility for the operation, maintenance, or inspection of such obligation-financed facilities.
  - e) Changes in the project that impact the terms or commitments of the obligation are properly documented and necessary certificates or opinions are on file.
- 6) Additional Undertakings and Activities that Support Sections 1 through 5 above:
- a) The Finance Director will notify the City's bond counsel, financial advisor and arbitrage provider of any survey or inquiry by the IRS immediately upon receipt. Usually responses to IRS inquiries are due within 21 days of receipt. Such IRS responses require the review of the above-mentioned data and must be in writing. As much time as possible is helpful in preparing the response.
  - b) The Finance Director will consult with the City's bond counsel, financial advisor and arbitrage provider before engaging in post-issuance credit enhancement transactions (e.g. obligation insurance, letter of credit, or hedging transaction).
  - c) The Finance Director will monitor all "qualified tax-exempt debt obligations" (often referred to as "bank qualified" obligations) within the first calendar year to determine if the limit is exceeded, and if exceeded, will address accordingly. For obligations issued during years 2009 and 2010 the limit was \$30,000,000. During this period, the limit also applied to pooled financings of the governing body and provides a separate \$30,000,000 for each 501 (c)(3) conduit borrower. In 2011 and thereafter it is \$10,000,000 unless changed by Congress.
  - d) Identify any post-issuance change to terms of obligations which could be treated as a current refunding of "old" obligations by "new" obligations, often referred to as a "reissuance."
  - e) The Finance Director will consult with the City's bond counsel prior to any sale, transfer, change in use or change in users of obligation-financed property which may require "remedial action" under applicable Treasury Regulations or resolution pursuant to the VCAP Program.

- i) A remedial action has the effect of curing a deliberate action taken by the City which results in satisfaction of the private business test or private loan test. Remedial actions under Section 1.141-12(d)(e) and (f) include the redemption of non-qualified obligations and/or the alternative uses of proceeds or the facility (i.e. to be used for another qualified purpose).
- f) The Finance Director will ensure that the appropriate tax form for federal subsidy payments is prepared and filed in a timely fashion for applicable obligations (e.g. Build America Bonds).

## 7) Continuing Disclosure Obligations

- a) Identify a position at the City to be responsible for compliance with continuing disclosure obligations as defined by the Rule and any policies of the City.
- b) The position responsible for compliance may have the ability to assign responsibilities, delegate where appropriate or engage a dissemination agent or third-party service providers to perform all or some of the duties described in this section. The City cannot delegate its compliance responsibilities.
- c) The City should specify how providers or delegated authorities will be monitored and supervised.
- d) The City should identify the documents that set forth the respective requirements being monitored at the time of closing for each obligation.
- e) The City should catalog all outstanding Continuing Disclosure Agreements and establish consolidated filing requirements based on the outstanding CDAs.
- f) The City should identify the frequency of the actions to be undertaken to ensure compliance, establish a system or filing alerts or reminders to administer the filing requirements.
- g) The Finance Director for compliance must be made aware of any new outstanding debt, changes to obligation or loan covenants, events of acceleration or default that would materially affect investors.
- h) The City should review a compliance checklist to verify compliance with CDA requirements, at least annually, although it may be advisable to provide more frequent reviews in connection to specific material events.
- i) The City should monitor mandatory material events specifically identified in accordance with the Rule and file required notices within 10 days of occurrence.
  - i) Principal and interest payment delinquencies.
  - ii) Non-payment related defaults, if material.
  - iii) Unscheduled draws on debt service reserves reflecting financial difficulties.
  - iv) Unscheduled draws on credit enhancements reflecting financial difficulties.
  - v) Substitution of credit or liquidity providers or their failure to perform.

- vi) Adverse tax opinion, IRS notices or material events affecting the tax status of the obligation.
  - vii) Modifications to rights of security holders, if material.
  - viii) Obligation calls, if material.
  - ix) Defeasances.
  - x) Release, substitution or sale of property securing repayment of the obligations, if material.
  - xi) Rating Changes.
  - xii) Bankruptcy, insolvency, receivership, or similar event of the obligated person(s).
  - xiii) Merger, consolidation, or acquisition of the obligated person, if material.
  - xiv) Appointment of a successor or additional trustee, or change of name of a trustee, if material.
  - xv) Incurrence of financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, if material.
  - xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the City, any of which reflect financial difficulties.
- j) In addition to the mandatory material events, the City should review and file any additional or voluntary event notices.
  - k) The City should maintain a catalog of all outstanding obligations whether publicly offered or privately placed, and the terms and conditions that govern default or acceleration provisions.
  - l) Any missed filing requirement should be remedied with a failure to file notice as soon as possible once the late filing is identified and the required information is available to file.
  - m) Sensitive information such as bank accounts and wire information should be redacted from documents prior to posting on EMMA.
  - n) The City needs to monitor for changes in law and regulations that effect continuing disclosure obligations and review disclosure policies and procedures periodically to ensure compliance and consistency with regulation and market expectations.
- 8) Compliance with Future Requirements
- a) Take measures to comply with any future requirements issued beyond the date of these Post-Issuance Debt Compliance Procedures which are essential to ensuring compliance with the applicable state and federal regulations.



**STAFF REPORT NO. 63**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
5/3/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of the Public Works Department Water Service Shut-Off Policy.**

**EXECUTIVE SUMMARY:**

The City, in its efforts to ensure the highest level of water service to customers, which includes accurate water usage reading, billing, and proper maintenance of equipment, will from time to time need and request access to the water service customer or property owner's premises.

By receiving water service from the City, all customers or property owners have agreed to provide reasonable access to the premises upon request for the above purposes.

The ability to terminate water service to a customer or property owner is the most effective means of ensuring access to the premises is provided to utility staff when needed to inspect, maintain, or replace water service infrastructure, such as water meters.

While termination of water service is rare, a clear and thorough policy that specifies the actions taken leading up to water service termination is in the City's best interest.

**RECOMMENDED ACTION:**

**By motion: Approve a Public Works Department Water Service Shut-Off Policy.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The process spelled out in this policy has been the standard practice for water service termination in the City of Richfield for decades but has never been detailed in a formal written policy.
- The literal shut-off of water service is very rare. Utility staff recalls one instance of service termination in the last 4 years, and roughly six instances where the City reached the "third notice" phase of this policy before access was achieved.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Richfield Code of Ordinances, section 715.21, subdivision 1, states that the application for or acceptance of water service from the City constitutes permission for the City to access the water service infrastructure for any purpose reasonably necessary for the proper administration of the

water service. Subdivision 2 of the same section states that termination of service is a potential consequence for the failure to provide access to the premises.

- Minnesota Statutes, section 412.321 gives municipal utilities the authority to "... *make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products*".

**C. CRITICAL TIMING ISSUES:**

- With the implementation of the City's water meter replacement program beginning in Summer 2019, a clear policy specifying the process for water service termination will benefit both the City and customers in the event access to the premises is not obtained.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- The City Attorney has reviewed this policy and will be available to answer questions.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

|   | Description                   | Type            |
|---|-------------------------------|-----------------|
| □ | Water Service Shut-Off Policy | Backup Material |

**PUBLIC WORKS DEPARTMENT  
CITY OF RICHFIELD**

**SUBJECT:** Water Service Shut-Off Policy

**Purpose**

The purpose of this policy is to establish a clear process to terminate water service when a water service customer or property owner fails to provide or does not allow access to their property for inspection, maintenance or replacement of water service infrastructure, particularly water meters.

The City does not terminate water service to a customer or property owner for delinquent or unpaid utility bills. In these cases, the City will certify to the Hennepin County Auditor the delinquent charges for inclusion in the property owner's annual property tax bill pursuant to Minnesota Statutes, section 444.075.

**Authority**

Richfield Code of Ordinances, section 715.21, provides that the termination of water service is a potential consequence when a water service customer *"... fails to provide access to the premises, whether for the reading, inspection, repair or replacement of a meter or for some other purpose reasonably necessary for the proper administration of service."*

Minnesota Statutes, section 412.321, gives municipal utilities broad authority to *"... make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products."*

**Policy**

The City, in its efforts to ensure the highest level of water service to customers, which includes accurate water usage reading, billing and proper maintenance of equipment, will from time to time need and request access to the water service customer or property owner's premises. By receiving water service from the City, all customers or property owners have agreed to provide reasonable access to the premises upon request for the above purposes.

When the City is unable to access the premises due to a nonresponsive occupant or property owner, the City will move forward with the notification process for termination of water service as detailed in this policy. In the case of an explicit denial of access to the water service infrastructure, the City will bypass the remaining notification steps and move forward with termination of water service.

**Applicability**

This policy applies to all property owners or occupants of any premises within the City that receive water service from the City. Before ever terminating water service, City staff will be sure to verify occupancy status to eliminate the possibility of a "snowbird"

property owner who is not actually receiving the request for property access. The City will also cross reference the accuracy of its property ownership records with Hennepin County records.

### **Procedure**

With the goal of avoiding actual termination of a customer's water service but ensuring the prompt access to the water service infrastructure, the City has put in place a thorough notification process for an owner or occupant when access to their premises is needed.

- **First Notice:** The City will knock on a customer's door to request access to the premises. If no contact is made, staff will hang a notice on the front door of the premises requesting access to the water service infrastructure. The water service customer or property owner is asked to provide access within two weeks to complete the necessary inspections or repairs.
- **Second Notice:** If no contact is made with the water service customer or property owner in the two weeks following the first notice, the City will hang another notice on the front door of the premises and send a letter to the property owner or person listed on the utility billing account requesting access to the water service infrastructure. The letter will include a notice that water service can be terminated after five business days if the City receives no response from the water service customer or property owner.
- **Third Notice:** If no contact is made with the water service customer or property owner in the five business days following the second notice, the City will knock on the customer's door, hang a "Water Shut-Off Notice" on each exterior door and mark and paint the curb-stop valve location. A second letter is then sent to the property owner or person listed on the utility billing account requesting access to the premises and includes a notice that water service will be terminated in as soon as five business days if the water service customer or property owner does not respond to this final notice.
- **Water Service Termination:** If no contact is made with the water service customer or property owner within five business days following the third notice, the City, in consultation with the Public Works Director or their designee, will terminate water service at the curb-stop valve. The City will then hang a notice on the door stating that water service has been terminated and send a letter to the property owner or person listed on the utility billing account giving notice of the water service termination. The Community Development Department Inspections Division and the Public Safety Department will then be notified that water service has been terminated to the property.

- **Reestablishing Water Service:** If a water service customer has their water service terminated, the City will not reestablish water service until access to the premises is granted by the customer or property owner and the repairs or inspections are complete. Following completion of this work and authorization from the Community Development Department Inspections Division and the Public Safety Department, the City will reestablish water service at the curb-stop valve.

**Policy Review**

The City will review and update this policy periodically as deemed necessary.



**STAFF REPORT NO. 64**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Scott Kulzer, Administrative Aide/Analyst

DEPARTMENT DIRECTOR REVIEW: Kristin Asher, Public Works Director  
5/7/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of the Richfield Utility Box Wrapping Policy and adoption of a resolution of support for the selected photographs to be used to wrap the Hennepin County-owned utility boxes located at Penn Avenue & 66th Street and Nicollet Avenue & 70th Street.**

**EXECUTIVE SUMMARY:**

In order to apply for permits to wrap Hennepin County utility boxes in the city, both a resolution of support for the proposed wraps and a guiding document, known as the Utility Box Wrapping Policy, are required to be approved by City Council.

A resolution of support from the City Council must be adopted specifying the specific design to be used and the specific box that the City intends to wrap. The proposed resolution pertains to the following utility boxes and designs:

- **Penn Ave & 66th Street:** The City intends to apply for a permit to wrap the Hennepin County utility box located on the northeast corner of Penn Avenue and 66th Street with the attached photograph by John Glavan titled "Wood Lake Boardwalk with Cloudy Skies".
- **Nicollet Ave & 70th Street:** The City intends to apply for a permit to wrap the Hennepin County utility box located on the southwest corner of Nicollet Avenue and 70th Street at the Richfield Community Center with the attached photographs by Cynthia Mandl titled "Green Iguana" and "Red Eyed Stream Frog". Per the proposed Policy, the Richfield Arts Commission voted to have the wrap designed in manner in which the Iguana faces Nicollet Avenue and the Frog faces the community center.

In order to apply for permits to wrap Hennepin County utility boxes in the city, a standardized policy is required to be approved by City Council. The Public Works Department has developed the Utility Box Wrapping Policy to standardize the future decorative wrapping of utility boxes throughout the City. The policy covers the process that guides:

- Funding source(s)
- Utility box selection
  - City-owned boxes
  - Hennepin County-owned boxes
- Art, Photograph & Design Sources
- Art Selection Process
- Utility Box Wrap Maintenance and Removal

**RECOMMENDED ACTION:**

**By motion: Approve the Richfield Utility Box Wrapping Policy and adopt a resolution of support for the selected photographs to be used to wrap the Hennepin County-owned utility boxes located at Penn Avenue & 66th Street and Nicollet Avenue & 70th Street.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- To date, the City of Richfield has wrapped three City-owned utility boxes at the following locations:
  1. One box at the Southwest corner of Lyndale Ave and 65th Street.
  2. Two boxes near the park shelter at Veterans Memorial Park.
- The Public Works Department aims to wrap 1-2 utility boxes per year going forward.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Hennepin County has recently developed a permitting process for municipalities to apply for the wrapping of Hennepin County utility boxes.
- As part of the Hennepin County permit requirements, a City adopted guidance document (the Policy) must be developed and approved and a City Council resolution supporting the proposed designs and locations must be adopted prior to permit application.

**C. CRITICAL TIMING ISSUES:**

- With the approval of this Policy and adoption of the resolution of support, the Public Works Department will apply for the needed permits through Hennepin County with the intention of wrapping the utility boxes sometime this summer.

**D. FINANCIAL IMPACT:**

- Funding for the two proposed utility box wraps has been included in the Public Works 2019 operating budget.
- Past experience with wrapping utility boxes of this size indicates the cost will be in the range of \$1,000 to \$1,500 for each of the proposed utility boxes.
- Requests for quotes are solicited from local vendors specializing in vinyl wrapping for each utility box project.

**E. LEGAL CONSIDERATION:**

- None

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

|   | Description                  | Type              |
|---|------------------------------|-------------------|
| ☐ | Utility Box Wrapping Policy  | Backup Material   |
| ☐ | Resolution                   | Resolution Letter |
| ☐ | Penn & 66th Box Proposal     | Backup Material   |
| ☐ | Nicollet & 70th Box Proposal | Backup Material   |
| ☐ | Complete Utility Box Wraps   | Backup Material   |

## Public Works Department City of Richfield

Subject: Utility Box Decorative Wrapping Policy

### **Purpose**

In recognition of the value provided to the community by public art and beautification projects, the City of Richfield has developed a formal process for initiating the installation of decorative wrapping on City-owned and County-owned utility boxes.

### **Policy**

#### **Funding Source**

Funding for the decorative wrapping of utility boxes may come from a variety of sources. Generally, Public Works will know a year or more in advance of the intent to wrap a utility box and will have included the funds in their operating budget for that given year. If available, Public Works staff may also pursue grant opportunities to finance the wrapping of utility boxes if the grant requirements fit within the framework of this policy. Donations or fundraising efforts from local public or private groups are also an acceptable source of funding for a specific utility box wrap.

City policy requires the formal acceptance of grant money or donations via a City Council resolution. Therefore, if a grant or donation would require a specific box or a specific piece of artwork, photograph or design be used for the wrapping, it must be approved by the Public Works Director or their designee *and* the Richfield Arts Commission prior to accepting the award or donation.

The cost to wrap a utility box varies depending on size and shape from around \$700 for a simple single cabinet to upwards of \$1900 for boxes with multiple cabinets and other features, like meters. In all cases, a request for quotes will be sent to local area firms that specialize in vinyl wrapping in an effort to achieve the most competitive price. The Public Works Director or their designee will ultimately have the final discretion in selecting the best vendor for the project.

#### **Utility Box Selection**

Following confirmation of available funding for the decorative wrapping of a utility box, the Public Works Director or their designee will select a utility box as a candidate for the wrap. Utility boxes range in size and shape, in both vertical and horizontal forms, and they also vary in their suitability for a decorative wrap. In selecting a utility box, the Public Works Director or their designee will consider:

- Location and site appropriateness;
- Traffic volumes & visibility;
- Existing condition;
- Likelihood of future displacement by a reconstruction project; and
- Size, shape and other features.

#### **City-owned utility box**

If the utility box is a City-owned utility box, then Public works staff may go forward with the art, photograph or design selection process as detailed later in this policy.

#### **Hennepin County-owned utility box**

If the utility box is owned by Hennepin County, then a City Council resolution specifically supporting the proposed art, photograph or design and the location of the utility box to be wrapped must be approved

by City Council before a permit is sought from Hennepin County. Hennepin County maintains the final discretion whether to accept the selected utility box location and proposed art, photograph or design when considering the permit application.

#### Xcel Energy-owned utility box

Xcel Energy owns many utility boxes throughout the Twin Cities region and Richfield but Xcel does not allow decorative wrapping of their utility boxes and therefore are not eligible to be selected for wrapping.

#### **Art, Photograph & Design Sources**

Most commonly, designs for utility box wrapping will come from photograph submissions to the annual Richfield Photo Contest held every spring. The contest categories include parks, animals and wildlife, people at play and architecture and design. The annual contest results in a wide variety of photo submissions and a wealth of potential content for a utility box wrap. The Public Works Director or their designee will identify an appropriate theme or style of photograph for the selected utility box and will submit three (3) photographs to the Richfield Arts Commission (RAC) for consideration at their next regularly scheduled meeting. Following discussion and a vote, a photograph or pair of photographs will be selected as the design for the utility box wrap.

Less frequently, the RAC will issue a “Call for Artists” proposal for unique and original artwork to be considered for use in the decorative wrapping of a utility box. Following the application deadline for artwork submissions, the RAC will evaluate the submissions based on the detailed criteria laid out in the call for artists and vote on a preferred piece of artwork to be used as a utility box wrap.

On a case-by-case basis and as the opportunity arises, the Public Works Director or their designee may consider unsolicited art, photographs or designs from sources including but not limited to community groups, school students or other Richfield stakeholders as candidates for decorative utility box wraps. In these cases, the proposing organization would need to fund the utility box wrap on their own. Once a design is selected and the availability of funding is confirmed, the RAC will ultimately be asked to authorize the utility box wrap.

#### **Art Selection**

The Richfield Arts Commission is ultimately responsible for the selection of the art, photograph or design to be wrapped on a utility box. The RAC’s mission is “...to raise awareness of, promote the value of, advocate for and support the arts in Richfield. The RAC functions in an advisory capacity to the Richfield City Council.” The RAC meets the first Thursday of every month at 7pm, and is made up of seven (7) Richfield adults and two (2) youth members. In their evaluation of proposed utility box designs, the RAC will consider:

- Does the wrap stimulate excellence in urban design and public arts:
  - Is the image engaging and high quality in concept?
  - Is the image interesting and unique?
  - Does the image work within or play with the box form itself?
- Does the wrap enhance community identity and place:
  - Is the image meaningful to the city and its residents?
- Will the wrap contribute to community vitality:
  - Does the image draw in the viewer and provoke positive community ideals?
  - Does the image celebrate the city?
- Does the wrap involve a broad range of people/communities:
  - Will a broad range of people connect with the image?

**Utility Box Wrap Maintenance & Removal**

Richfield Public Works staff will work to maintain wrapped utility boxes for as long as possible. Graffiti or vandalism will be removed when possible. Damage to the utility box, excessive and repeated graffiti or vandalism, or other issues that make the utility box wrap unsightly or a burden to maintain may warrant the removal of the utility box wrap. In these instances, the Public Works Director or designee will evaluate the situation on a case-by-case basis and may direct staff to remove the decorative utility box wrapping. Hennepin County may also elect to have an authorized utility box wrap removed for the above-mentioned reasons, or for any other reasons. Public Works staff will promptly remove the wraps following such a decision.

**Policy Review**

The City will review and update this policy periodically as needed.

*Questions regarding this policy or concerns related utility box wrapping should be directed to Richfield Public Works at 612-861-9170 or [pwoperations@richfieldmn.gov](mailto:pwoperations@richfieldmn.gov).*

## RESOLUTION NO.

### RESOLUTION OF SUPPORT FOR THE PROPOSED DECORATIVE UTILITY BOX WRAPS ON HENNEPIN COUNTY UTILITY BOXES LOCATED AT PENN AVE/66<sup>TH</sup> STREET & NICOLLET AVE/70<sup>TH</sup> STREET.

**WHEREAS**, the City Council of the City of Richfield recognizes the value provided to the community by public art and beautification projects; and

**WHEREAS**, the City Council has adopted a policy detailing the process for the installation of decorative wraps on City- or Hennepin County-owned utility boxes; and

**WHEREAS**, the City has identified two Hennepin County-owned utility boxes that it will apply for permits to wrap in 2019; and

**WHEREAS**, the City proposes to wrap the utility box at the Northeast corner of Penn Avenue South (CSAH 32) and 66<sup>th</sup> Street East (CSAH 53) with the “Wood Lake Boardwalk with Cloudy Skies” photograph by John Glavan submitted through the annual Richfield Photo Contest; and

**WHEREAS**, the City proposes to wrap the utility box at the Southwest corner of Nicollet Avenue South (CSAH 52) and 70<sup>th</sup> Street East using photographer Cynthy Mandl’s photos with the “Green Iguana” photo facing Nicollet Ave and the “Red Eyed Stream Frog” photo facing the Richfield Community Center; and

**WHEREAS**, the Richfield Arts Commission, tasked with selecting art, photographs or designs for utility box wraps as detailed in the Utility Box Wrapping Policy, held discussion and voted to use the above-mentioned photographs at the selected locations for the proposed utility box wraps.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Richfield, Minnesota, as follows:

1. The Public Works Director or their designee is authorized to apply for a permit to wrap the Hennepin County-owned utility box at Penn Ave & 66<sup>th</sup> Street with the “Woodlake Boardwalk with Cloudy Skies” photograph by John Glavan.
2. The Public Works Director or their designee is authorized to apply for a permit to wrap the Hennepin County-owned utility box at Nicollet Ave & 70<sup>th</sup> Street with the “Green Iguana” and “Red Eyed Stream Frog” photographs by photographer Cynthy Mandl.

Adopted by the City Council of the City of Richfield, Minnesota this 14th day of May, 2019.

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Maria Regan Gonzalez, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

# Penn Ave & 66<sup>th</sup> Street Utility Box Wrap

“Wood Lake Boardwalk with Cloudy Skies” by John Glavan:



Proposed Box at Penn and 66<sup>th</sup>:



## Nicollet Ave & 70<sup>th</sup> Street Utility Box Wrap

“Green Iguana” by Cynthy Mandl:



“Red Eyed Stream Frog” by Cynthy Mandl:



# Nicollet Ave & 70<sup>th</sup> Street Utility Box Wrap

Proposed Box at Nicollet and 70<sup>th</sup>:



Lyndale and 65<sup>th</sup> Utility Box Wrap:



Veterans Park Utility Box Wraps:





**STAFF REPORT NO. 65**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Jennifer Anderson, Support Services Manager

DEPARTMENT DIRECTOR REVIEW: Jay Henthorne, Director of Public Safety/Chief of Police  
5/8/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of an annual request for a Temporary On Sale Intoxicating Liquor license for the Academy of Holy Angels, located at 6600 Nicollet Avenue South, for their annual Holy Angels Rock the Lawn event taking place Friday, June 21, 2019.**

**EXECUTIVE SUMMARY:**

On April 18, 2019, the City received application materials for a Temporary On Sale Intoxicating Liquor license for the Academy of Holy Angels, located at 6600 Nicollet Avenue South, for their annual Holy Angels Rock the Lawn event taking place Friday, June 21, 2019. They will serve beer and wine from 6:00 p.m. to 11:00 p.m. No other intoxicating liquor beverages will be permitted.

They will be having food trucks providing food for the event. The Academy of Holy Angels has contacted food sanitarians from the City of Bloomington to ensure proper food handling practices are followed.

The Director of Public Safety has reviewed all required information and documents and has found no basis for denial.

**RECOMMENDED ACTION:**

**By motion: Approve the issuance of a Temporary On Sale Intoxicating Liquor license for the Academy of Holy Angels, located at 6600 Nicollet Avenue South, for their Holy Angels Rock the Lawn event taking place Friday, June 21, 2019.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The applicant has satisfied the following requirements for the issuance of this license:
  - The required licensing fee has been paid.
  - Proof of liquor liability insurance has been provided showing West Bend Mutual affording the coverage.
  - Along with the application they included a diagram of where the alcohol will be served and consumed as well as how ID's will be checked and how they will be monitoring sales and consumption.
  - They have contracted with the City of Richfield Police to provide security for the event.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- Richfield City Code Section 1202.05 requires all applicants to comply with all of the provisions of this code, as well as the provisions of Minnesota Statute Chapter 340A.

**C. CRITICAL TIMING ISSUES:**

- There are no critical timing issues.

**D. FINANCIAL IMPACT:**

- The required licensing fees have been received.

**E. LEGAL CONSIDERATION:**

- There are no legal considerations.

**ALTERNATIVE RECOMMENDATION(S):**

- The Council could deny the approval of the Temporary On Sale Intoxicating Liquor license for the Academy of Holy Angels. This would mean the applicant would not be able to serve wine or strong beer; however, Public Safety has not found any basis for denial.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Academy of Holy Angels staff has been notified of the date of this meeting.



**STAFF REPORT NO. 66**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Sadie Gannett, Assistant Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/8/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution granting a Site Plan Approval and a Variance for a restaurant at 6433 Penn Avenue S.**

**EXECUTIVE SUMMARY:**

The property at 6433 Penn Avenue S. has been occupied by Johnston's Vac & Sew for many years. It was recently purchased to be remodeled into a bubble tea cafe with a limited food menu. Traditional (Class II) restaurants are a permitted use in the Mixed Use Community (MU-C) District but must be granted a site plan review.

In addition to the site plan review, the applicant is requesting approval of a variance from off-street parking requirements. The use of the property is changing from retail to a Class II restaurant, which increases the parking requirement to 15 stalls. Under the existing conditions there is limited opportunity to make changes and the applicant is requesting a variance to operate with 13 stalls.

The proposed use is reasonable and offers improvements to the site. While no site improvements are required, the applicant is proposing multiple improvements that will encourage a pedestrian-oriented environment, which is in-line with the Comprehensive Plan and the intent of the Mixed-Use District. A full discussion of general site plan requirements and additional information related to the variance can be found in the Policy Section and in an attachment to this report.

Finding that the proposal meets requirements, staff recommends approval of the site plan and variance.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution for a Site Plan Approval and Variance for a restaurant at 6433 Penn Avenue S.**

**BASIS OF RECOMMENDATION:**

A. **HISTORICAL CONTEXT**

- Discussed in the Executive Summary.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

This property is zoned Mixed Use – Community (MU-C) and is within the Penn Avenue Corridor (PAC) Overlay District. The PAC District allows for a balanced mix of commercial, office and residential uses that together create a cohesive and pedestrian-friendly area. Site plan approval is required prior to the change in use of a building. The proposed site plan will improve upon existing conditions, while allowing for reuse and aesthetic improvements.

**General Criteria for Site Plan Evaluation**

In evaluating a site plan, the Planning Commission and City Council shall consider its compliance with the following criteria that are discussed more fully in the attached requirements document:

- Consistency with the various elements and objectives of the City's Comprehensive Plan.
- Consistency with the purposes of the City Code.
- Consistency and harmony with the general appearance of neighboring developed areas and open spaces.
- An internal sense of order and provision of a desirable environment.
- Appropriateness of the amount and arrangement of open space and landscaping, the building materials, textures and colors.
- Adequacy of circulation and parking for all modes of transport.
- Use of energy-conserving design.
- Protection of adjacent and neighboring properties from negative environmental impacts.

Criteria listed are all met or improved by the proposed site plan.

**Variance**

A Class II restaurant has higher parking requirements than the type of retail that had operated here. Parking requirements are based on square footage and the parking requirement for a Class II restaurant is 10 spaces per 100 square feet (Subsection 544.13, Subd. 6). This building is approximately 1,600 square feet, which would require 16 parking spaces. After factoring in a 10 percent reduction for proximity to public transit service, the total parking requirement is 15 spaces. Currently there are 12 parking spaces available. The applicant is proposing to reconfigure the parking lot to accommodate patio seating in front of the building and is able to provide 13 parking spaces.

Much of the building will be used as kitchen, storage, and bathroom facilities, with only a small portion of the space available for customer seating. This location is in close proximity to a concentration of residences and businesses and it is reasonable to assume that some percentage of customers and employees will choose to walk, bike, or take public transportation rather than drive. There is limited space to create additional parking.

Additional information related to the requested variance and required findings are attached to this report.

**C. CRITICAL TIMING ISSUES:**

- 60-DAY RULE: The 60-day clock 'started' when a complete application was received on March 26, 2019. A decision is required by May 25, 2019 or the Council must notify the applicant that it is extending the deadline (up to a maximum of 60 additional days or 120 days total) for issuing a decision.

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing was held before the Planning Commission on April 22, 2019.
- Notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the site.
- The Planning Commission voted 4-2 (Rudolph and Lavin dissenting) to recommended approval of this proposal.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve the site plan and variances for a restaurant at 6433 Penn Avenue S. with additional and/or modified stipulations.
- Deny the site plan and/or variances with a finding that the proposal does not meet requirements.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

David Fong, applicant

**ATTACHMENTS:**

|   | Description       | Type              |
|---|-------------------|-------------------|
| □ | Resolution        | Resolution Letter |
| □ | Required Findings | Backup Material   |
| □ | Site Plan         | Backup Material   |
| □ | Site Photos       | Backup Material   |
| □ | Zoning Map        | Backup Material   |

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION GRANTING APPROVAL  
OF A SITE PLAN AND VARIANCE AT  
6433 PENN AVENUE S.**

**WHEREAS**, an application has been filed with the City of Richfield which requests approval of site plans for a Class II (traditional/cafeteria) restaurant on the parcel of land located at 6433 Penn Avenue S. (the "Property"), legally described as:

The North 75 feet of the West Half of the South 219.2 feet of the North 657.6 feet of the North Three Quarters of the West Quarter of the Southwest Quarter of the Northwest Quarter of Section 28, Township 28, Range 24, in the Village of Richfield, Hennepin County, Minnesota

**WHEREAS**, the Planning Commission of the City of Richfield held a public hearing and recommended approval of the requested site plan and variance at its April 22, 2019 meeting; and

**WHEREAS**, notice of the public hearing was published in the Sun Current newspaper and mailed to properties within 350 feet of the subject property; and

**WHEREAS**, the Zoning Code requires 15 parking spaces based on the square footage of the building, while the proposed site plan provides 13 spaces; and

**WHEREAS**, Minnesota Statutes Section 462.357, Subdivision 6, provides for the granting of variances to the literal provisions of the zoning regulations in instances where their enforcement would cause "practical difficulty" to the owners of the Property under consideration; and

**WHEREAS**, based on the findings below, the Richfield City Council approves the requested variance from Richfield City Code Subsection 544.13, Subdivision. 6; and

**WHEREAS**, the City has fully considered the request for approval for the site plan with variances; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Richfield, Minnesota, as follows:

1. The City Council makes the following general findings:
  - a. The Property is zoned Mixed Use Community (MU-C) and is located in the Penn Avenue Corridor (PAC) overlay.
  - b. Restaurant Class II uses are permitted in the MU-C District. The Penn Avenue Corridor District provides for a balanced mix of commercial, office and residential uses that together create a cohesive and pedestrian-friendly area.

- c. The site and building are existing and were previously used as a Vacuum and Sewing machine repair and retail store.
  - d. Code states that the minimum number of off-street parking spaces required for a Class II Restaurant is 10 per 1,000 square feet of gross floors area. A variance from Subsection 544.13, Subd. 6 is required.
2. With respect to the application for a variance from the above-listed requirements, the City Council makes the following findings:
  - a. Strict enforcement of the Richfield Zoning Code Subsections listed above would cause a practical difficulty. It would be difficult to reuse the existing property without a variance. It is reasonable to allow the reuse of an existing building on an existing lot. Limited space exists to create additional parking.
  - b. Unique circumstances affect the Property that were not created by the land owner. The building was constructed in 1953, prior to the adoption of current Codes. These circumstances were not created by the land owner.
  - c. Granting the requested variance will not alter the essential character of the neighborhood. The requested variance will allow for the reuse and improvement of an existing building. The improvements proposed will benefit the surrounding neighborhood by improving the aesthetics of the site and bring new customers to the Penn Avenue Corridor. No negative impacts are expected.
  - d. The variances requested are the minimum necessary to alleviate the practical difficulty. The proposed variance is the minimum necessary to reuse this property.
  - e. The variances are in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan. The proposed plans are consistent with the general purposes and intents of the Zoning Ordinance and Comprehensive Plan.
3. With respect to the proposed site plan, the City Council finds that it will adequately serve the purpose for which it is proposed and will not have adverse effect upon the public safety or general welfare.
4. Based upon the above findings, a variance to the above-specified requirements is hereby approved.
5. Based upon the above findings and variance, the proposed site plan is hereby approved according to the terms of Richfield City Code Subsection 547.13 with the following additional stipulations:
  - That the recipient of this approval record this Resolution with Hennepin County, pursuant to Minnesota Statutes Section 462.36, Subd. 1 and Richfield Zoning Ordinance Section 547.11, Subd. 7. Proof of recording is required prior to the issuance of a building permit;
  - At least one bicycle parking spot is required.
  - The applicant is responsible for obtaining all required permits, compliance with all requirements detailed in the City's Administrative Review Committee Report dated March 21, 2019, and compliance with all other City and State regulations. Permits are required prior to commencement of any work.
  - The applicant must install professionally-designed odor control remedies if a Type 1 ventilation hood is required;

- Prior to the issuance of an occupancy permit, the applicant shall submit a surety equal to 125% of the value of any improvements not yet complete (based on two bids including labor cost).
- This approval shall expire one year from the date of approval unless the use has commenced or a building permit has been obtained and construction begun.

Adopted by the City Council of the City of Richfield, Minnesota this 14th day of May 2019.

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Maria Regan Gonzalez, Mayor

ATTEST:

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Elizabeth VanHoose, City Clerk

## Code Requirements / Required Findings

**Part 1 - Site Plan Approval (Subsection 547.13)** In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the following:

- a) *Consistency with the various elements and objectives of the City's long range plans including, but not limited to, the Comprehensive Plan.* In the Penn Avenue Corridor, the Mixed Use District is intended to be a vibrant, pedestrian-oriented neighborhood center. The District can accommodate a variety of uses. The proposed use of the property as a Class II restaurant is in keeping with these intentions. Additionally, the proposed improvement of adding a patio in front of the building, adjacent to the sidewalk, encourages a pedestrian-oriented environment.
- b) *Consistency with the purposes of the Zoning Code.* The purposes of the Zoning Code include: assisting in the implementation of the Comprehensive Plan; creating harmonious and workable relationships among land uses; enhancing and protecting the physical appearance of the City and more. The proposal is consistent with these purposes of the Zoning Code.
- c) *Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas.* The site is already fully developed and is over 80 percent impervious. The applicant is proposing substantial upgrades to both the exterior of the building as well as landscaping improvements which will improve the appearance of the site overall.
- d) *Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development.* The existing building façade is complimentary to the adjacent properties. The proposed improvements to the site, particularly the landscaping upgrades and patio addition, will further enhance the visual appearance.
- e) *Creation of a functional and harmonious design for structures and site features including:*
  - i. *Creation of an internal sense of order for the various functions and buildings on the site and provision of a desirable environment for occupants, visitors and the general community;*
  - ii. *Appropriateness of the amount and arrangement of open space and landscaping to the design and function of the development;*
  - iii. *Appropriateness of the materials, textures, colors and details of construction as an expression of the design concept of the project and the compatibility of the same with the adjacent and neighboring structures and functions; and*
  - iv. *Adequacy of vehicular, cycling and pedestrian circulation, including walkways, interior drives and parking, in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian, cycling and vehicular traffic and arrangement and amount of parking so as to be safe, convenient and, insofar as practicable, compatible with the design of proposed buildings, structures and neighboring properties.*

This site has historically been used as a retail and repair store for larger items such as vacuums and sewing machines and the 12 existing parking stalls were adequate. This site does qualify for a 10 percent reduction in required parking due to the proximity to public

transit service. The striping of an accessible parking space brings the property into compliance with ADA requirements. A bike rack will also be required. Landscaping areas facing Penn Avenue and along the north property line will be improved from the previous tenant and improve the curb appeal of the building. Along the south property line, there is limited opportunity to improve the site further given the placement and size of the building.

- f) *Creation of an energy-conserving design through design location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading.* The proposal will not worsen conditions and it is possible that the improved landscaping will have a positive impact on surface water drainage.
- g) *Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.* No changes to surface water drainage, sound and/or sight impacts, views, etc. are anticipated, but the added landscaping could improve surface water drainage.

## **Part 2 - Variances:**

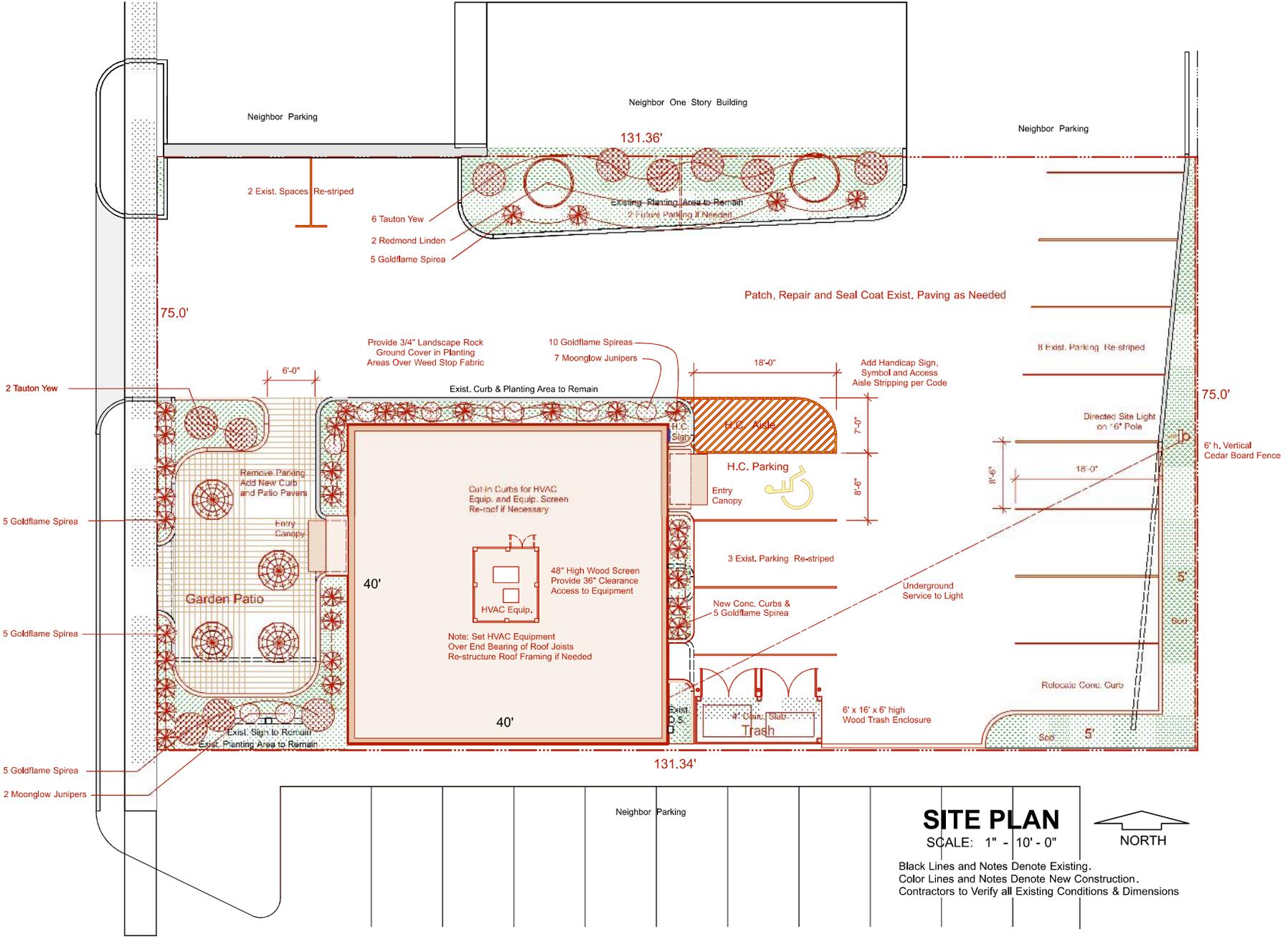
The proposed site plan will improve upon existing conditions, allowing for reuse and aesthetic improvements to a site that would benefit from these improvements. The applicant is requesting variance from off-street parking requirements.

Subsection 544.13, Subd. 6:

- o Off-street spaces required—15 spaces required. (existing – 12 / proposed – 13)

The findings necessary to approve variances are as follows (Subsection. 547.11):

- a) *There are “practical difficulties” that prevent the property owner from using the property in a reasonable manner.* It would be difficult to reuse the existing property without a variance. It is reasonable to allow the reuse of an existing building on an existing lot. Limited space exists to create additional parking.
- b) *There are unusual or unique circumstances that apply to the property which were not created by the applicant and do not apply generally to other properties in the same zone or vicinity.* The building was constructed in 1953, prior to the adoption of current Codes. These circumstances were not created by the land owner.
- c) *The variance would not alter the character of the neighborhood or the locality.* The requested variance will allow for the reuse and improvement of an existing building. The improvements proposed will benefit the surrounding neighborhood by improving the aesthetics of the site and bring new customers to the Penn Avenue Corridor. No negative impacts are expected.
- d) *The variance is the minimum necessary to alleviate the practical difficulty.* The proposed variance is the minimum necessary to reuse this property.
- e) *The variance is in harmony with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.* The proposed plans are consistent with the general purposes and intents of the Zoning Ordinance and Comprehensive Plan as discussed further in Part 1 of this document.



**SITE PLAN**  
SCALE: 1" = 10' - 0"



Black Lines and Notes Denote Existing.  
Color Lines and Notes Denote New Construction.  
Contractors to Verify all Existing Conditions & Dimensions



### ROOM FINISH SCHEDULE

| Room          | Ceiling  | Walls      | Base | Floor |
|---------------|----------|------------|------|-------|
| Dining Areas  | Pt. G.B. | Pt. G.B.   | Q.T. | Q.T.  |
| Front Kitchen | Pt. G.B. | C.T.       | Q.T. | Q.T.  |
| Back Kitchen  | Ac.T.    | C.T.       | Q.T. | Q.T.  |
| Storage Room  | Ac.T.    | Pt. G.B.   | Q.T. | Q.T.  |
| Utility Room  | Ac.T.    | C.T. & Pt. | Q.T. | Q.T.  |
| Restrooms     | Ac.T.    | C.T. & Pt. | C.T. | C.T.  |
| Hall          | Pt. G.B. | Pt. G.B.   | Q.T. | Q.T.  |

Pt. G.B. = Painted Gypsum Board  
 C.T. = Ceramic Wall Tile & Floor Tile  
 Ac.T. = Washable Acoustic Tile Ceiling  
 Q.T. = Quarry Floor Tile & 6" Covered Base Tile

### EQUIPMENT LIST

- | FRONT KITCHEN            | BACK KITCHEN           |
|--------------------------|------------------------|
| 1 Prep fridge            | 17 Work table 60"      |
| 2 Work table 30"         | 18 Ice Machine         |
| 3 Sealer                 | 19 Double door fridge  |
| 4 Work table 72"         | 20 Work table 60"      |
| 5 Grinder                | 21 Kitchen hood        |
| 6 Espresso machine       | 22 Work table 48"      |
| 7 HW dispenser           | 23 Fryer 40lb          |
| 8 Under counter fridge   | 24 Work table 84"      |
| 9 Beverage dispenser     | 25 HW dispenser        |
| 10 Work table 60"        | 26 Boba cooker         |
| 11 Under counter freezer | 27 Wash sink           |
| 12 Hand sink             | 28 3-Comp sink         |
| 13 Wash sink             | 29 Hand sink           |
| 14 Ice bin               | 30 Single door fridge  |
| 15 Work table 72"        | 31 Single door freezer |
| 16 Blenders              | 32 RO filter           |
| 34 Ice shaving machine   | 33 Mop sink            |

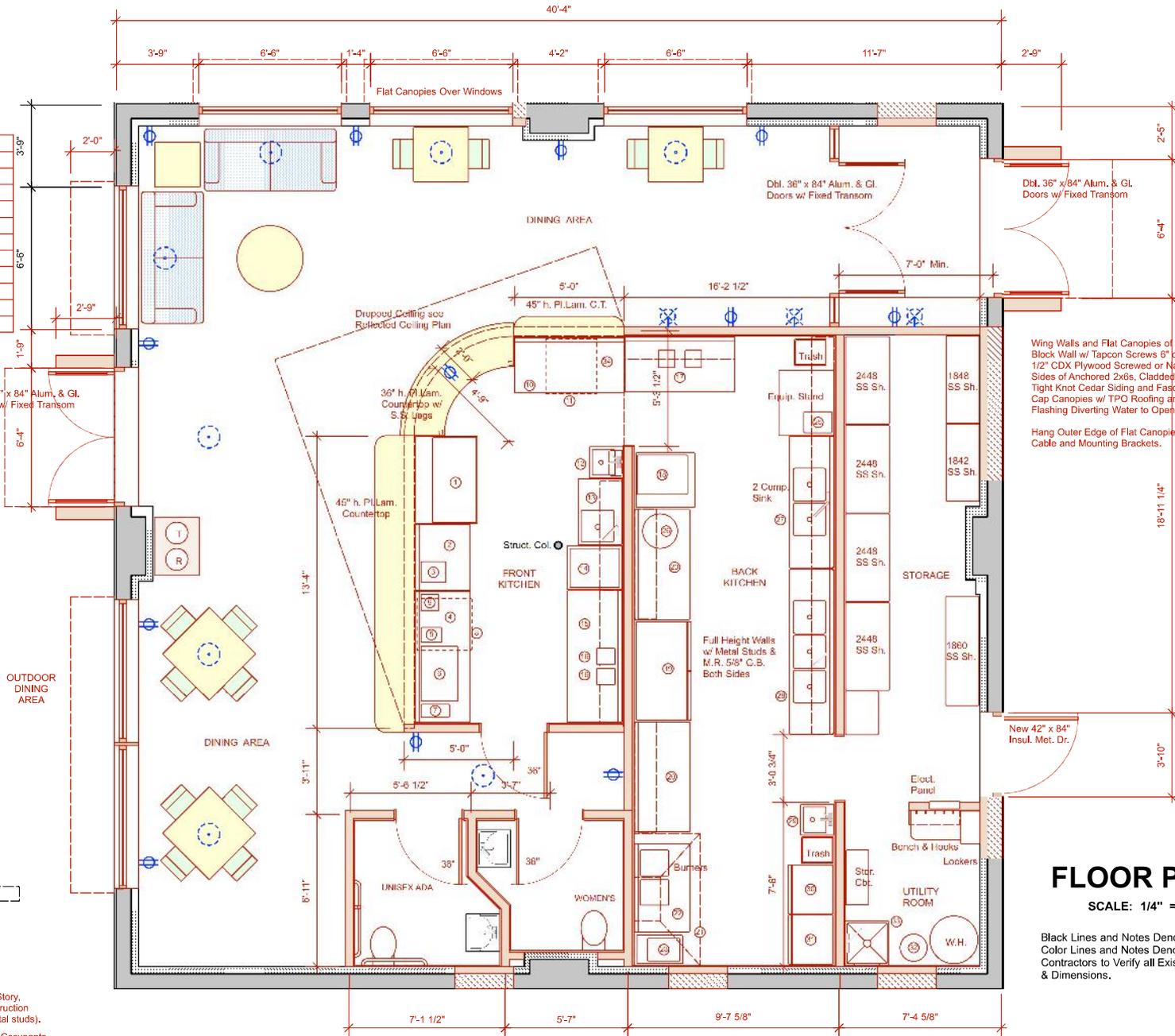
OUTDOOR DINING AREA

Re-face Existing Pylon Sign

### CODE REVIEW

BUILDING DESCRIPTION: Existing 40' X 40', 1 Story, 1,600 s.f., 14' high, Non-Sprinkled, Type 5A Construction (block exterior, wood roof framing and wood or metal studs).

PROPOSED USE: Coffee Shop with less than 50 Occupants, Class B for Business Use, Conditional Use and Non-Separated One Exit Required, Two Provided  
 Two Restrooms Required, Two Provided, One Uni-sex ADA



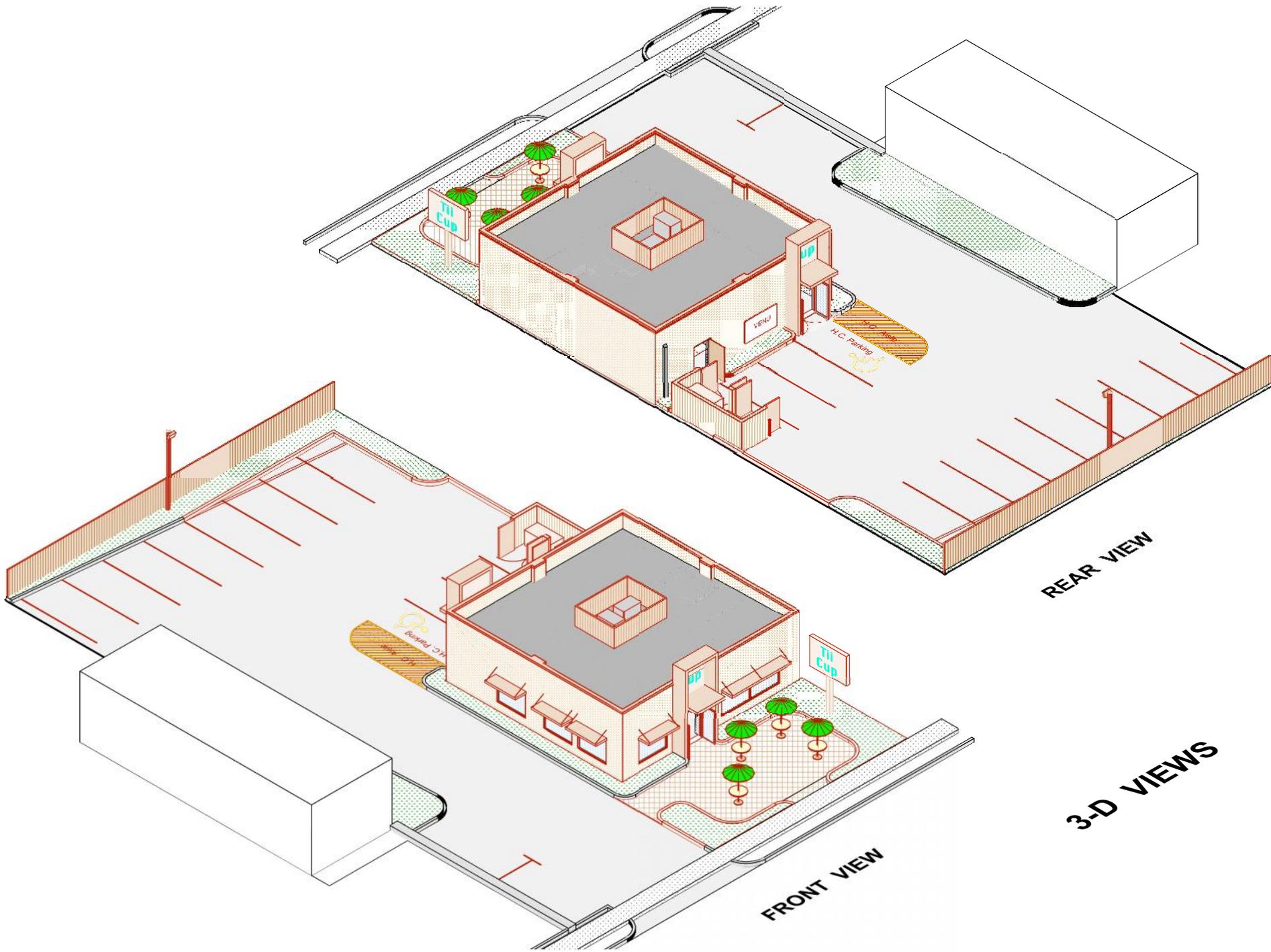
Wing Walls and Flat Canopies of 2x6s Anchored to Block Wall w/ Tapcon Screws 6" o.c. Staggered, 1/2" CDX Plywood Screwed or Nailed 4" o.c. to Both Sides of Anchored 2x6s, Cladged w/ 6" Horizontal T&G, Tight Knot Cedar Siding and Fascia Boards, Clear Sealed Cap Canopies w/ TPO Roofing and Metal Edging & Flashing Diverting Water to Open Sides.

Hang Outer Edge of Flat Canopies w/ Non-corrosive Cable and Mounting Brackets.

## FLOOR PLAN

SCALE: 1/4" = 1' - 0"

Black Lines and Notes Denote Existing. Color Lines and Notes Denote New Construction. Contractors to Verify all Existing Conditions & Dimensions.



FRONT VIEW

REAR VIEW

3-D VIEWS



**H.RISTENSEN ARCHITECTURAL CONSULTANTS** 7126 Excelsior Way, St. Louis Park, MN 55426 612-377-9493 hanc@you-do.com  
**TII CUP** @ 6433 Penn Avenue S., Richfield, MN

I HEREBY CERTIFY THAT THE ABOVE DRAWINGS AND SPECIFICATIONS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED ARCHITECT IN THE STATE OF MINNESOTA. REG. NO. 15098  
*[Signature]*  
 DATE: 3/7/19

ISSUE NO. 1, 28, 19  
 DATE 3, 7, 19  
 DRAWN: D.L.L.

SHEET 4 OF 7

6433 Penn Ave Street View – Existing Condition



6433 Penn Ave – Aerial View



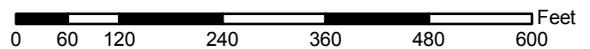
# 6433 Penn Avenue VAR & SP - 4/2019

## Surrounding Zoning & Comprehensive Plan



Comp Plan:  
 HDR- High Density Residential  
 LDR - Low Density Residential  
 MDR - Medium Density Residential  
 MIXED - Mixed Use  
 CCO - Community Commercial  
 NC - Neighborhood Commercial

Zoning:  
 R - Single Family Residential  
 MR-3 - High-density residential  
 MU-C/PAC - Mixed-Use Community/Penn Overlay  
 PMR - Planned Multi-Family  
 C-2 - General Commercial





**STAFF REPORT NO. 67**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Matt Brillhart, Associate Planner

DEPARTMENT DIRECTOR REVIEW: John Stark, Community Development Director  
5/8/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of a first reading of an Ordinance amending Zoning Code Section 537: Mixed Use Districts and Section 512: Districts**

**EXECUTIVE SUMMARY:**

Planning staff routinely reviews zoning ordinances to ensure consistency, identify issues as they arise, and make adjustments as needed. In reviewing the Mixed Use Zoning Districts (Section 537), staff found a number of inconsistencies in the table of uses between the Mixed Use Districts and other zoning districts, as well as other issues that warranted review.

The Mixed Use Districts were first implemented in 2006, following adoption of the I-494 Corridor Master Plan, and were initially tailored specifically for the types of large lots that have frontage on both 77th Street and on I-494 (494). There are numerous text references to 494 in the code. These regulations were modified in early 2009 to allow greater flexibility for the redevelopment of small lots (less than 2 acres). Since that time, the Mixed Use designation has been applied to both the Penn and Cedar Avenue Corridors; however, rather than amending the Mixed Use District language, Overlay Districts were created. Most recently, Mixed Use zoning has been implemented for approved developments such as Lyndale Gardens and The Emi, and could be extended to additional sites in the Lyndale-HUB-Nicollet area that are guided for Mixed Use development in the Comprehensive Plan. Staff believes that it is now time to remove most of the 494-specific language from Section 537 so that the Mixed Use District regulations can be more easily applied across the city.

The goal of this ordinance amendment is to address inconsistencies between districts by replacing the table of uses (Table 1), amend language specific to the 494 Corridor, and make other adjustments based on lessons learned from recent and approved development projects.

**Table 1: Uses of the Mixed Use District**

The table of permitted, conditional, and accessory uses appears in both Section 537—Mixed Use and Section 512—Districts, but had major inconsistencies in how the tables were arranged and sorted. In addition to replacing both tables with identical versions, the following changes were made to specific uses:

- Offices/clinics, spas, health clubs, and yoga studios are proposed to be permitted uses in the Mixed Use—Neighborhood district. These types of businesses are identified as 'accessory' or 'not permitted' in the current table of uses. However, these businesses fall under the umbrella definition of 'Neighborhood retail/services' which are permitted. Nonresidential (commercial) uses in the Mixed Use—Neighborhood district are limited to 10,000 square feet maximum, which ensures that commercial offerings are at a neighborhood scale, not a regional one. Staff proposes to raise the allowed *percentage* of nonresidential use from 10% to 15%, to allow for flexibility in smaller-scale developments. The lower figure of 10,000 square feet or 15% of the total floor area would apply.
- Service station/convenience store (i.e. gas stations) are proposed to be conditional uses in the Mixed Use—Regional and Mixed Use—Community districts rather than simply permitted, as they are today. This will eliminate an inconsistency with the General Business (C-2) District, which regulates service stations as conditional uses. Conditions from that district (537.04 Subd. 11) regarding setbacks and buffering from adjacent properties are proposed to be adopted in the Mixed Use Districts. Service stations are not permitted in the Mixed Use—Neighborhood District.
- 'Parks' were removed from the table, as Section 512.03 already states that parks are permitted in all districts. 'Police substation' was removed from the table, as this type of use would be permitted as 'office' or 'government building'. These changes are aimed at reducing redundancy in the code.

### **Table 2: Mixed Use Bulk and Dimensional Standards**

The Mixed Use Districts are the only district citywide that implements a *maximum* rear setback, meaning that under current regulations, a building cannot be placed more than 15 feet away from the rear lot line. A major goal of the Mixed Use Districts is to locate new buildings as close to the front/primary street as possible. Given building coverage and impervious surface maximums, it is often not practicable to have buildings extend entirely across a lot from the front to rear lot lines. This regulation was aimed at getting buildings in the 494 Corridor to have meaningful frontage along both 77th Street and 494, but would not necessarily be a desired outcome along 66th Street or Penn Avenue, where the goal is to have buildings pulled up to sidewalks (front/corner lot lines) and be located away from adjacent residential properties (rear lot lines). Additionally, staff proposes to eliminate a section of Table 2 regarding 'zero lot line setbacks' for residential developments. While it makes sense to allow commercial and vertical mixed use developments to be built right up to front/corner lot lines, it is more desirable for residential-only developments to provide some amount of setback (10'-20') from front lot lines, to allow for entry/amenity plazas, hanging balconies, landscaping and buffering from busy streets.

### **Table 3: Minimum Parking Standards for Mixed Use Districts**

Current residential parking requirements in the Mixed Use Districts are 1.5 spaces per unit, whereas the high-density residential (MR-3) district allows parking ratios to be lowered to 1.25 spaces per unit. Staff proposes to adopt that 1.25 space standard in the Mixed Use Districts. This would improve consistency between zoning districts, and is consistent with the parking ratios at several recently approved development projects. The Chamberlain, Emi, and NOVO apartment developments have parking ratios ranging from 1.24 to 1.3 spaces per unit, while the Henley apartments at Lyndale Gardens will have 1 space per unit. Structured or underground parking spaces come with a considerable cost to build (estimated at \$25,000 or more per underground space), and are a significant factor in the cost of new housing development. Higher parking requirements drive up the cost of building new housing, thereby raising rent or purchase prices. These are minimum requirements, and developers may choose to build more parking than is required.

The amendments described herein and in the attached ordinance text will better align use tables between districts, while updating and clarifying other regulations for the Mixed Use Districts. In the coming months, staff anticipates studying the Bulk and Dimensional Standards in Table 2 in greater detail, along with a thorough review of the performance/design standards in Subsection 537.11 for potential updates to those regulations.

**RECOMMENDED ACTION:**

By motion: Approve a first reading of an Ordinance amending Zoning Code Section 537: Mixed Use and Section 512: Districts.

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- None

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The purpose of the Mixed Use districts is to guide future development in a manner that adapts to market and transportation changes while promoting greater pedestrian, bicycle and transit connections; reducing impervious surface; and ensuring high-quality architectural design. These changes will help to ensure that the mixed use zoning districts can continue to be implemented in appropriate locations throughout the city (in accordance with the Comprehensive Plan), rather than being specifically tailored to the 494 Corridor.
- See the attached ordinance amending Zoning Code Sections 537 (Mixed Use Districts) and 512 (Districts) for all proposed changes.

**C. CRITICAL TIMING ISSUES:**

- None

**D. FINANCIAL IMPACT:**

- None

**E. LEGAL CONSIDERATION:**

- A public hearing to consider this ordinance was held before the Planning Commission on April 22, 2019. Notice of the public hearing was published in the *Sun Current* newspaper on April 11, 2019.
- The Planning Commission recommended approval of the attached ordinance (6-0), with the exception of the proposed change to Table 3 (parking requirements), on which there was a split vote (3-3) resulting in no recommendation. Staff had initially proposed allowing residential parking requirements to be lowered to 1 space per unit in areas near high-frequency public transit service or if a shared vehicle was provided on the premises, but that change has been removed at this time. Planning staff anticipates studying parking requirements in greater detail along with retail/restaurant parking requirements, which have not been adjusted in many years.
- If first reading is approved, the Council will consider a second reading and adoption of the ordinance on May 28, 2019.

**ALTERNATIVE RECOMMENDATION(S):**

- Approve a first reading of the ordinance with modifications.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

N/A

**ATTACHMENTS:**

|   | Description            | Type      |
|---|------------------------|-----------|
| ☐ | Ordinance              | Ordinance |
| ☐ | Zoning map             | Exhibit   |
| ☐ | Comprehensive Plan map | Exhibit   |

BILL NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE RICHFIELD CITY CODE  
TO UPDATE REGULATIONS IN MIXED USE ZONING DISTRICTS**

**THE CITY OF RICHFIELD DOES ORDAIN:**

Section 1                    Section 537 of the Richfield City Code is amended to read as follows:

**SECTION 537 - MIXED-USE DISTRICT (MU)**

(Added, Bill No. 2007-19)

**537.01. - Mixed Use Districts (MU).**

**Subdivision 1. Sub-districts defined.** A mixed use district is an area that supports multiple land uses that are complementary to one another and support the ability to live, work, shop and play within a development pattern of horizontally mixed or vertically mixed uses. There are three sub-districts of mixed use as follows:

- a) Mixed Use Regional (MU-R). Regional mixed use supports destination oriented commercial and office uses at a high density/intensity of development. Limited higher density residential uses would be encouraged to support major employment concentrations. Vertical mixing of uses would be encouraged to create building mass along primary arterials.
- b) Mixed Use Community (MU-C). Community mixed use includes shops and services that support the surrounding community. A balanced mix of commercial, office and higher density residential uses would be included in this district. Vertical mixing of uses would be encouraged to create building mass along primary arterials.
- c) Mixed Use Neighborhood (MU-N). Neighborhood mixed use emphasizes residential development with supporting retail and commercial service uses. Commercial services are emphasized at key transportation nodes/corners and are intended to be of a smaller scale and oriented to the neighborhood.

**Subd. 2. Purpose and Intent.** The purpose and intent of the Mixed Use Districts shall be to:

- a) Guide future development ~~along the I-494 corridor in order to~~ adapt to market and transportation changes;
- b) Encourage vertical mixed-uses clustered at primary (regional) and secondary (community) transportation nodes ~~to build identity within the district;~~
- c) Provide a mix of residential densities ~~along the corridor;~~
- d) Provide appropriate transitions between uses;
- e) Promote greater pedestrian and bicycle access and connections ~~throughout the corridor and along the length of the corridor;~~
- f) Discourage auto oriented uses in favor of pedestrian friendly mixed-use development;
- g) Encourage reductions in impervious surface, while adding well landscaped and attractive public and private spaces with a pedestrian and bicycle friendly character and environment by minimizing surface parking and enhancing pedestrian corridors (sidewalks and trails) through reinforcing build-to lines, getting new buildings to address the street and emphasize enticing street level architecture;
- h) Encourage public and quasi-public open spaces within the corridor by allowing and encouraging taller buildings for high-density uses;
- i) Ensure high quality architectural design and materials;
- j) Promote increased use of transit; and

- k) Encourage redevelopment in a manner that is consistent with the Comprehensive Plan and any applicable corridor master plan or small area plan. ~~redevelopment plan(s) that exist for the district.~~

**Subd. 3. Review Criteria.** In evaluating development proposals, the Planning Commission and City Council shall consider compliance with the following:

- a) Consistency with the elements and objectives of the City's development guides, including the Comprehensive Plan and any redevelopment plans established for the area;
- b) Consistency with this Subsection;
- c) Creation of a design for structures and site features which promotes the following:
  - (i) An internal sense of order among the buildings and uses;
  - (ii) The adequacy of vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking;
  - (iii) Energy conservation through the design of structures and the use of landscape materials and site grading; and
  - (iv) The minimization of adverse environmental effects on persons using the development and adjacent properties.

**537.03. - Permitted Uses.**

**Subdivision 1.** The following table establishes permitted, conditionally permitted and accessory uses for the Mixed Use Districts:

**Table 1.** Uses of the Mixed-Use District

**Note** —The following abbreviations are used within the use table:

- P= permitted use
- A= accessory use
- C= conditionally permitted
- N= not permitted

| Land Use   | MU-N | MU-C | MU-R                         |
|--|------|------|------------------------------|
| <b>Residential</b>   |      |      |                              |
| Assisted living facilities, nursing, rest homes  | P    | P    | N                            |
| Dwelling, multifamily (min. 3 units)   | P    | P    | P (but see 537.07, Subd. 2a) |
| Dwelling, townhouse  | P    | N    | N                            |
| Live-work units  | P    | P    | N                            |
| <b>Commercial, Institutional and Public</b>  |      |      |                              |
| Adult business establishments as defined and regulated under City Code Subsection 1196 | N    | P    | P                            |
| Animal kennels   | C    | C    | C                            |

|  |   |   |   |
|--|---|---|---|
| Assembly and manufacturing accessory and subordinate to a retail use | N | A | A |
| Auto detailing   | N | C | C |
| Auto mechanical or body repair shops                                 | N | C | C |
| Auto rental facilities accessory to a primary office or hotel use    | N | A | A |
| Auto sales or lease - new vehicles                                   | N | N | C |
| Convenience store  | P | P | P |
| Day care facilities  | P | P | P |
| Drive-up window or teller service                                    | N | C | C |
| Firearms related uses  | N | N | C |
| Funeral homes, mortuaries  | N | P | N |
| Government buildings   | A | P | A |
| Health or athletic clubs, spas, yoga studios                         | P | P | P |
| Hospitals  | N | N | P |
| Hotel/motel (defined as 6 or more rooms)                             | N | P | P |
| Libraries, public  | P | P | N |
| Marijuana (medical) dispensaries                                     | N | N | N |
| Marijuana (recreational) sales outlets                               | N | N | N |
| Micro-production facility (micro-brewery/micro-distillery)           | N | C | C |
| Offices and clinics  | P | P | P |
| Public utilities, major  | N | C | C |
| Public utilities, minor  | A | A | A |
| Religious institutions   | P | P | A |
| Restaurant Class I (serving alcohol)                                 | N | C | P |
| Restaurant Class II (traditional/cafeteria)                          | P | P | P |
| Restaurant Class III (fast food with drive-thru)                     | N | C | C |
| Restaurant Class IV (take out only)                                  | P | P | P |
| Retail services, General   | C | P | P |
| Retail services, Neighborhood  | P | P | P |

|  |   |     |     |
|--|---|-----|-----|
| Retail services, Regional              | N | C   | P   |
| Schools, public or private             | P | P   | C   |
| Service station/Convenience store      | N | C   | C   |
| Taproom/Cocktail room                  | N | A/C | A/C |
| Tattoo shops                           | N | P   | P   |
| Theaters, movie, or live entertainment | N | N   | P   |
| Transit Facilities                     | A | A   | A   |

| Use  | MU-R | MU-C | MU-N |
|--|------|------|------|
| <b>COMMERCIAL</b>  |      |      |      |
| Regional retail services   | P    | C    | N    |
| General retail services  | P    | P    | C    |
| Neighborhood retail services   | P    | P    | P    |
| Restaurant Class I (serving alcohol)                                 | P    | C    | N    |
| Restaurant Class II (traditional/cafeteria)                          | P    | P    | P    |
| Restaurant Class III (fast food/convenience)                         | C    | C    | N    |
| Restaurant Class IV (take-out only)                                  | P    | P    | P    |
| Micro-production facility (micro-brewery/micro-distillery)           | C    | C    | N    |
| Taproom/Cocktail room  | A/C  | A/C  | N    |
| Service Station/convenience store                                    | P    | P    | N    |
| Convenience store  | P    | P    | P    |
| Offices and clinics  | P    | P    | A    |
| Hotel/motel (defined as 6 or more rooms)                             | P    | P    | N    |
| Mortuaries and funeral chapels                                       | N    | P    | N    |
| Health or athletic clubs, spas, yoga studios                         | P    | P    | N    |
| Theaters, movie or live entertainment                                | P    | N    | N    |
| Auto sales or lease—new vehicles                                     | C    | N    | N    |
| Auto mechanical or body repair shops                                 | C    | C    | N    |
| Auto detailing   | C    | C    | N    |
| Auto rental facilities accessory to a primary office or hotel use    | A    | A    | N    |
| Assembly and manufacturing accessory and subordinate to a retail use | A    | A    | N    |

|   |   |   |                                    |
|---|---|---|------------------------------------|
| Drive-up window or teller service   | C | C | N                                  |
| Adult business establishments as defined and regulated under Subsection 1196 of the City Code | P | P | N                                  |
| Tattoo shops  | P | P | N                                  |
| Firearms related uses   | C | N | N                                  |
| Licensed day care facilities  | P | P | P                                  |
| Animal kennels  | C | C | C                                  |
| <b>RESIDENTIAL</b>  |   |   |                                    |
| Dwelling, townhouse   | N | N | P                                  |
| Dwelling, multifamily (min. 3 units)  | P | P | P<br>(but see 537.07,<br>Subd. 2a) |
| Live-work units   | N | P | P                                  |
| Assisted living facilities, nursing, rest homes   | N | P | P                                  |
| <b>INSTITUTIONAL/PUBLIC</b>   |   |   |                                    |
| Places of worship   | A | P | P                                  |
| Government offices  | A | P | A                                  |
| Police sub-station  | P | P | P                                  |
| Schools   | C | P | P                                  |
| Library   | N | P | P                                  |
| Parks   | P | P | P                                  |
| Hospitals   | P | N | N                                  |
| Transit facilities  | A | A | A                                  |
| Public utility  | A | A | A                                  |

(Amended, Bill No. 2011-13; 2011-19; 2014-4; 2015-15; 2019-\_\_)

**Subd. 2.** Any land use not listed as Permitted, Accessory or Conditional in this section or Subsection 512.09 is prohibited in the Mixed-Use Districts unless the use is found to be substantially similar to a use listed, as determined by the City in accordance with Subsection 509.23 of this Code.

**537.05. - Conditional Uses.**

**Subdivision 1.** [Generally.] Conditional uses listed in Table 1 are subject to the conditional use permit provisions outlined in Subsection 547.09 of this Code and the following conditions: (Amended, Bill No. 2011-21)

**Subd. 2.** Regional retail services in MU-C. Regional retail services in the MU-C district provided that retail uses with over 50,000 square feet of gross floor area, are located within a multi-tenant or multi-use shopping area or other multi-tenant development and meet the mixed use requirements of Subsection 537.07, Subd. 2.

**Subd. 3.** General retail services in MU-N. General retail services in the MU-N district provided the following conditions are met: The retail uses front on an arterial street and meet the area requirements of Subsection 537.07, Subd. 2.

**Subd. 4. Restaurant Class I in MU-C.** Class I restaurants in the MU-C district provided that alcoholic beverages shall not be served unless the lot abuts an arterial or collector street.

**Subd. 5. Restaurant Class III or Drive-Up Window or Teller Service.** Uses with drive-up window or teller service provided the following conditions are met:

- a) A minimum distance of 500 feet must be maintained between substantially similar uses with drive-up window or teller service (as measured from property line to property line);
- b) Uses with drive-up window or teller service may not be located adjacent to a property with an existing drive-up window or teller service unless an applicant can demonstrate that the use will not be detrimental to pedestrian, bicycle or vehicle movements;
- c) No drive-up window or lane shall be adjacent to a public street;
- d) Drive-up uses shall be limited to one (1) service window which is part of a primary structure and a single queuing lane and order board/station;
  - (i) The content portion of order boards is limited to 40 square feet;
  - (ii) Order board content may not extend above eight (8) feet in height on the supporting structure;
  - (iii) Order boards/stations must be located within 60 feet of the business which they serve.
- e) The City may consider one (1) additional service lane for automated teller machines (ATMS) or similar facilities;
- f) Drive-up facilities must be designed to minimize impacts to the pedestrian environment and adequately address circulation issues and potential noise or light pollution;
- g) Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing;
- h) There shall be no curb cuts on public streets exclusively for the use of drive-up queuing or exit lanes. Drive-up traffic shall enter and exit from internal circulation drives;
- i) Queuing space for at least four (4) cars (70 feet) shall be provided as measured from, but not including, the first drive-up service window or teller station. Such queuing space shall not interfere with parking spaces or traffic circulation;
- j) Any drive-up service window, teller or order station, or exterior loudspeaker shall be located at least 150 feet from any parcel with residential uses on the first floor;
- k) The applicant shall demonstrate that such use will not significantly lower the existing level of service on streets and intersections;
- l) The City shall encourage operators to permit bicyclist use of sales and service windows;
- m) Alcoholic beverages shall not be served through a drive-up window; and
- n) Exterior speakers shall comply with the noise control limits set by Subsection 930 of the City Code.

(Amended, Bill No. 2015-1)

**Subd. 6. New auto sales or lease businesses.** Motor vehicle sales of new vehicles provided the following conditions are met:

- a) Motor vehicle repair and service and sales of used vehicles are allowed when accessory to new vehicle sales. Used auto sales shall be permitted only as an integral part of a new auto sales business (from the same land parcel and in close proximity to the new cars).
- b) The business shall be licensed under Subsection 1155 of the City Code;

- c) The use site shall not abut a lot which is in the R or R-1 District. For the purpose of this subdivision, a lot which merely adjoins the use site at one (1) corner shall not be deemed to abut the use site;
- d) A buffer yard of not less than 15 feet in width shall be provided to separate all aspects of such use from abutting parcels;
- e) Landscaping for the site, including display areas, shall comply with the Performance Standards described in Section 544 of this Code;
- f) Inoperable vehicles shall not be stored on the premises, except in appropriately designed and screened areas as approved by the City;
- g) Parking of vehicles for sale or lease on public right-of-way shall be prohibited;
- h) All repair, assembly, disassembly, maintenance, and detailing of vehicles shall occur within an enclosed building, except minor maintenance such as tire inflation or adding windshield wiper fluid; and
- i) Any exterior speaker shall comply with the noise control limits set by Subsection 930 of the City Code.

**Subd. 7. Service station / Convenience store.** Service station / Convenience store provided the conditions detailed in the C-2 District are met (534.07 Subd. 11).

**Subd. 87. Auto mechanical or body repair shops.** Auto mechanical or body repair shops provided the conditions detailed in the C-2 District are met (534.07 Subd. 12).

**Subd. 98. Auto detailing shops.** Auto detailing shops provided the conditions detailed in the C-2 District are met (534.07 Subd. 13).

**Subd. 109. Firearms Related Uses.** Firearms related uses provided the conditions detailed in the C-2 District are met (534.07 Subd. 17).

**Subd. 1140. Schools in MU-R.** Schools in the MU-R district provided the following: the school has a regional orientation, be oriented to secondary, post-secondary, business or vocational learning and be part of a mixed-use development.

**Subd. 1244. School-based health centers.** School-based health centers as accessory uses within currently operating schools provided the following conditions are met:

- a) The health center must primarily serve students;
- b) Total square footage of the health center may not exceed 3,000 square feet or ten (10) percent of the total building square footage, whichever is less;
- c) Designated parking equal to staff plus one (1) per exam room must be provided and designated for clinic use;
- d) Because of the focus on students and the associated sharing of parking, advertising shall be limited to directional and identification signs. The maximum sign area and height shall not exceed the limits set for nonresidential uses per Subsection 549.23. The total square footage of all freestanding signage for the property shall be governed by the underlying zoning district. (Added, Bill No. 2015-7)

**Subd. 1342. Animal kennels.** (Added, Bill No. 2011-19)

- a) MU-N: Animal kennels shall be permitted in the MU-N District provided the following conditions are met: That full soundproofing is installed on all interior walls (including ceiling) and that the area requirements of Subsection 537.07, Subd. 2 are met.
- b) MU-C: Animal kennels shall be permitted in the MU-C District provided the following conditions are met: That if located in a multi-tenant building, soundproofing is installed on all walls (including ceiling) that are adjacent to another tenant or residential common area.

- c) MU-R: Animal kennels shall be permitted in the MU-R District provided the following conditions are met: That if located in a multi-tenant building, soundproofing is installed on all walls (including ceiling) that are adjacent to another tenant or residential common area.
- d) Outdoor relief areas in MU Districts: Outdoor relief areas shall be permitted in the MU Districts provided that the conditions listed in 534.07, Subd. 24 are met.

**Subd. 1443.** Micro-production facilities in the MU-C and MU-R Districts provided that the following conditions are met:

- a) Licensing. The owner of the micro-production facility qualifies for and receives all federal, state and city licenses necessary for the operation of the micro-production facility, including a brewer license and a malt liquor wholesale license (if wholesale of malt liquor is an intended activity); and/or a distiller's license from the State of Minnesota.
- b) Taproom/Cocktail Room Location in MU-C District. Micro-production facilities with an accessory taproom or cocktail room in the Mixed Use - Community District must be on a lot abutting an arterial or collector street.
- c) Taproom/Cocktail Room Operations. Taprooms/cocktail rooms must either make food available on-site or expressly allow patrons to carry in food.
- d) Taproom/Cocktail Room License. An accessory taproom or cocktail room for the sale of beer or spirits produced on-site shall require a taproom/cocktail room license from the City of Richfield in accordance with Section 1202 of the City Code.
- e) Off-sale. A micro-production facility may sell their product for off-sale consumption through their taproom or cocktail room. Any on-site sale of beer in the form of growlers shall require a Micro-brewery Off-sale License in accordance with Section 1202 of the City Code.
- f) Production of Beer. Annual production of malt liquor for a micro-brewery with an accessory taproom shall not exceed 3,500 barrels, and only 500 barrels may be sold off-sale as growlers. Production at micro-breweries without a taproom shall not exceed 1,750 barrels annually.
- g) Production of Spirits. Annual production of spirits for a micro-distillery with an accessory cocktail room shall not exceed 40,000 proof gallons annually. Production at micro-distilleries without a cocktail room shall not exceed 20,000 proof gallons annually.
- h) Off-street Loading. The micro-production facility shall provide adequate space for off-street loading and unloading of all trucks greater than 22 feet in length. In the absence of off-street loading, the City may impose limits on deliveries or shipments using the public right-of-ways, including regulating the number of trucks per day and the hours that deliveries are permitted.
- i) Odors. No odors from the micro-production facility shall be perceptible beyond the property line. The micro-production facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control Standards.
- j) Hours of Operation. Micro-production facility operation hours shall be limited to the hours specified in Minnesota Statutes Chapter 340A for off-sale intoxicating liquor unless further limited by the City Council as part of a Conditional Use Permit. (Added, Bill No. 2015-15)

**537.07. - Bulk and Dimensional Standards.**

**Subdivision 1.** The following table establishes certain bulk standards for the MU Districts:

**Table 2.**

Mixed Use Bulk and Dimensional Standards

(Amended, Bill No. 2009-6, 2017-6, 2019-\_\_)

| <b>Standard</b>   | <b>MU-R</b>              |         | <b>MU-C</b>              |         | <b>MU-N</b>              |         |
|---|--------------------------|---------|--------------------------|---------|--------------------------|---------|
| Building Stories <sup>1</sup>   | 2 min                    | No max  | 2 min                    | 12 max  | 2 min                    | 8 max   |
| Building Coverage   | 50% min                  | 75% max | 30% min                  | 50% max | 25% min                  | 50% max |
|   | Sites 2 acres or less    |         | Sites 2 acres or less    |         |                          |         |
|   | 30% min                  | 75% max | 25% min                  | 50% max |                          |         |
| Maximum Impervious Surface Coverage                                     | 85% of gross parcel area |         | 80% of gross parcel area |         | 75% of gross parcel area |         |
| Usable Open Space Requirement   | 5% of gross parcel area  |         | 5% of gross parcel area  |         | 10% of gross parcel area |         |
| Street Level Active Use Building Frontage <sub>2</sub>                  | 60% minimum              |         | 50% minimum              |         | No minimum               |         |
| Residential Setbacks <sup>3</sup> (standard setbacks)                   | <b>MU-R</b>              |         | <b>MU-C</b>              |         | <b>MU-N</b>              |         |
| Front   | 10' min                  | 20' max | 10' min                  | 20' max | 15' min                  | 25' max |
| Side  | 5' min                   |         | 5' min                   |         | 5' min                   |         |
| Rear  | 5' min                   | 20' max | 5' min                   | 20' max | 5' min                   | 25' max |
| Residential Setbacks <sup>3</sup> (zero lot line setbacks)              | <b>MU-R</b>              |         | <b>MU-C</b>              |         | <b>MU-N</b>              |         |
| Front   | 10' min                  | 20' max | 10' min                  | 20' max | 15' min                  | 25' max |
| Side  | 0' min                   |         | 0' min                   |         | 0' min                   |         |
| Rear  | 0' min                   | 20' max | 0' min                   | 20' max | 0' min                   | 25' max |
| Commercial and Mixed Use Setbacks <sup>3</sup> (standard setbacks)      | <b>MU-R</b>              |         | <b>MU-C</b>              |         | <b>MU-N</b>              |         |
| Front   | 0' min                   | 15' max | 0' min                   | 15' max | 5' min                   | 15' max |
| Side  | 5' min                   |         | 5' min                   |         | 5' min                   |         |
| Rear  | 5' min                   | 15' max | 5' min                   | 15' max | 5' min                   | 15' max |
| Commercial and Mixed Use Setbacks <sup>3</sup> (zero lot line setbacks) | <b>MU-R</b>              |         | <b>MU-C</b>              |         | <b>MU-N</b>              |         |
| Front - build to line   | 0' min                   | 15' max | 0' min                   | 15' max | 5' min                   | 15' max |
| Side  | 0' min                   |         | 0' min                   |         | 0' min                   |         |
| Rear  | 0' min                   | 15' max | 0' min                   | 15' max | 0' min                   | 15' max |
| Front yard setback for upper stories after the 3rd story                | 20' min                  |         | 20' min                  |         | 20' min                  |         |
| Setbacks and landscape area (front yard parking)                        | 5' min                   |         | 5' min                   |         | 5' min                   |         |
| Setbacks and landscape area to I-494                                    | 15' min                  |         | 15' min                  |         | 15' min                  |         |

<sup>1</sup> Parking structures shall not be included in calculation of building stories. Single story portions of structures may be allowed provided they are attached to a principal structure that is two (2) or more stories in height and that the footprint of the single story portion of the structure is no more than 40 percent of the total structure's footprint.

<sup>2</sup> For buildings with multiple street frontages, the Street Level Active Use Building Frontage requirement shall apply to the primary street and other pedestrian oriented streets as determined by the Director. In cases where active use, pedestrian-oriented building frontage along secondary streets is not supportive of the purposes and intent of the mixed use districts (Subsection 537.01, Subd. 2) the Director may waive or reduce the required minimum percentage of Street Level Active Use Building Frontage on those secondary streets.

<sup>3</sup> Standard setbacks apply to all uses except zero lot line developments. The front setback is a build-to line designed to locate buildings in close proximity to the public street. A 3' minimum setback to public sidewalks/trails may be required. Zero lot line setbacks allow buildings to be placed on an interior property line if that structure and the adjacent structure are designed with that placement in mind and a compatible relationship of uses results, including consideration of circulation drives, open space, easements, utility parking areas and glazed facades.

**Subd. 2. Mix of Uses Required.** A mix of uses within a building is required in the MU-C district and other building use criteria apply to the MU-R and MU-N districts.

- a) In the MU-R district a mix of uses is not required, however, residential uses are permitted up to 25 percent of the total building floor area on the site. i.e. if a site contains 100,000 square feet of building floor area, no more than 25,000 square feet of building area can be devoted to residential units and the common areas or associations that serve residential units.
- b) In the MU-C district a mix of uses is required for development sites that exceed two (2) acres in size. No single use type (retail, office, service, hotel, residential, etc.) can exceed 75 percent of the total building floor area on the site.
- c) In the MU-N district a mix of uses is not required, however, no more than 1540% of the total building floor area on the site or within the development can be devoted to nonresidential uses. Total nonresidential floor area in a residential development or building shall not exceed 10,000 square feet.

(Amended, Bill No. 2017-6)

**537.09. - Parking Standards .**

**Subdivision 1. Off Street Parking Ratios.** The following table establishes minimum parking standards for uses within the Mixed Use Districts.

**Table 3**

Minimum Parking Standards for Mixed Use Districts

(Amended, Bill 2009-6)

| Land Use Type             | Off Street Parking Ratio |      |
|---------------------------|--------------------------|------|
|                           | MU-R and MU-C            | MU-N |
| Commercial Retail *       | 4                        | 3    |
| Commercial Services *     | 3                        | 2    |
| Office *                  | 3.3                      | 2    |
| Civic *                   | 3                        | 2    |
| Hotel or motel (per room) | 1                        | 1    |
| Residential Townhouse **  | 1.5                      | 1.5  |

|  |   |          |
|--|---|----------|
| Residential Multifamily **                   | 1.25 4-5                                  | 1.25 4-5 |
| Other Uses                                   | As determined by the Zoning Administrator |          |
| * Per 1,000 square feet of gross floor area. |   |          |
| **Per dwelling unit.                         |   |          |

**Subd. 2. Other Parking Requirements.** All other parking requirements shall be dictated by Section 544 of this Code.

**537.11. - Other Performance Standards.**

**Subdivision 1.** Development shall comply with the provisions of Section 544 and the following standards.

**Subd. 2. Exterior Lighting.** Exterior lighting should be used to provide illumination for the security and safety of entry drives, parking, service and loading areas, pathways, courtyards and plazas, without intruding on nonadjacent properties. Exterior lighting shall comply with 544.09 and the following standards:

- a) Poles and fixtures shall be architecturally compatible with structures and lighting on- site and on adjacent properties.
- b) Security lighting shall be adequate for visibility, but not overly bright.
- c) ~~Lighting~~ Metal halide lighting shall be used with a concealed light source of the "cut-off" variety to prevent glare and "light trespass" onto adjacent buildings and sites.
- d) Separate pedestrian scale lighting or other low level fixtures, such as bollards, shall be incorporated for all pedestrian ways through parking lots and drop-off areas at entrances to buildings.
- e) All primary walkways, steps or ramps along pedestrian routes shall be illuminated.

**Subd. 3. Architectural Standards.** Exterior windows shall not be flush with the exterior walls. The windows shall utilize window trim with a minimum relief of 1" from the exterior wall or other similar articulation.

**Subd. 4. Building Relationship to Street and Pedestrian Areas.** All new retail, commercial, office, and mixed-use buildings are to provide a variety of active uses along a public street and/or major pedestrian area. This includes, but is not limited to, the use of multiple street front shops or businesses, multiple entrances into large single tenant buildings and design treatments of entrances, windows, facades etc. New buildings and developments shall comply with the following standards for building orientation and primary entrance:

- a) All buildings shall have at least one (1) primary patron entrance facing an abutting public street, rather than the parking area. Buildings abutting a major pedestrian circulation area as defined in Subsection 537.11, Subdivision 8 shall have at least one (1) primary entrance facing and accessing the major pedestrian circulation way. Primary entrance is defined as the principal entry through which people enter the building. A building may have more than one (1) primary entrance. Primary entrances shall be open to the public during all business hours.
- b) Primary building entrances shall be architecturally emphasized and visible from the street. Principal patron entrances should be clearly defined and highly visible utilizing such design features as awnings, canopies, pillars, special building materials or architectural details.
- c) Commercial or mixed-use structures that have over 60 linear feet of frontage on a major pedestrian area, public sidewalk or major street shall have a principal patron entrance onto the major pedestrian area, public sidewalk or major street. For building facades over 200 feet in length facing a street, two (2) or more building entrances on the street must be provided.

- d) Building entrances shall incorporate arcades, roofs, porches, alcoves, porticoes and awnings that protect pedestrians from the rain and sun.
- e) Buildings shall include changes in relief on 15 percent of their street facades such as cornices, bases, window treatments, fluted masonry or other designs for pedestrian interest and scale.
- f) Building facades greater than 100 feet in length shall have offset jogs, using elements such as bay windows and recessed entrances or other articulation so as to provide for pedestrian scale to the first floor and to avoid long continuous unbroken building facades.

**Subd. 5. Windows, Window Walls, Blank Walls and Design of the Ground Floor of Nonresidential Buildings.**

- a) All development shall provide ground floor windows along street facades, parks, plazas or other public outdoor spaces. Required window areas must be either windows that allow views into working areas or lobbies or pedestrian entrances or display windows. Required windows shall have a sill no higher than four (4) feet above grade, except as follows. Where interior floor levels prohibit such placement, the sill height maybe raised to allow it to be no more that two (2) feet above the finished floor level up to a maximum sill height of six (6) feet above grade.
- b) For any wall within 30 feet of a street or a major pedestrian area, at least 20% of the ground floor wall area facing the street or pedestrian area shall be display areas, windows, or doorways. Blank walls along streets, public outdoor spaces and major pedestrian areas are prohibited.
- c) Darkly tinted, frosted windows or any windows that block two-way visibility are prohibited as ground floor windows along street facades.

**Subd. 6. Upper Story Setbacks.** Upper story setbacks shall be required for structures over three (3) stories that are adjacent or across a street from residential or public parklands. Upper story setbacks shall be achieved by:

- a) Floors above the third floor or 50 feet shall be stepped back a minimum of 20 feet, and
- b) All buildings shall be stepped back such that the height of the building façade does not exceed an angle greater than 45 degrees from the average street elevation beginning at a point at the curb on the opposite side of the street.
- c) Exception. The Director may waive the building step-back requirements of this Subsection provided that the applicant clearly demonstrates the proposed project:
  - (i) Includes window treatments, entry placement, façade relief and other architectural treatments to provide visual interest and pedestrian-sensitive design at the street level and to maintain a human scale in the streetscape; and
  - (ii) Extends the same architectural features above the ground floor level through variations in design, detail and proportion and by avoiding designs featuring a monolithic street facade and is designed as not to obstruct sunlight from falling on a given point on the back of the sidewalk on the opposite side of the street for more than four (4) hours in any given day between September 21 and March 21.

**Subd. 7. Vehicular Circulation and Parking.** Parking and vehicular circulation shall comply with the standards in Subsections 544.11, 544.13 and the following standards:

- a) Parking drives should be located away from building entrances, be designed to minimize pedestrian conflicts and shall not be located between the main building entrance and the street;
- b) Surface parking lots shall be oriented behind or to the side of buildings;
- c) Driveway access and parking lots shall be shared as much as possible;
- d) Above grade parking ramps shall be located to the rear of a lot (towards I-494 in the 494 Corridor to provide shielding or buffering of I-494 from other uses on site);

- e) Parking ramps shall be designed to be architecturally integrated into the overall site and be made of comparable materials and decorative elements;
- f) For parking lots within pedestrian corridors, refer to Subdivision 8;
- g) Bicycle racks or storage shall be provided; and
- h) Cross access and circulation across adjoining parcels is required, where appropriate and feasible. Joint circulation shall be documented in a cross access and circulation easement and agreement.

**Subd. 8. Pedestrian and Bicycle Circulation.** Pedestrian and bicycle circulation and access shall comply with the standards in Subsection 544.15 and the following standards:

- a) Developments shall implement an on-site pedestrian and bicycle circulation system that complies with the Vision Plan for the district as adopted in the Comprehensive Plan or any other redevelopment plan for the district; and
- b) Sidewalks are required along both sides of all public rights-of-way.

**Subd. 9. Required Open Space in the 494 Corridor.** Within the mixed-use districts, a "major pedestrian area" of usable open space is to be the central organizing element that links the different parts of the corridor into a whole. The major pedestrian area is to be a continuous central spine of pedestrian circulation along the length of the I-494 corridor roughly midway between 77th Street and I-494. This pedestrian area shall be designed for pedestrian circulation and may include gathering and event space.

Landscape setback areas and other impervious areas are to be landscaped to enhance the aesthetics of the area and to define outdoor space. The landscape setback area next to I-494 is to be a green edge of landscaping that may include, but not be limited to trees, shrubs, vines and herbaceous plants. Open space can shape and serve as a transition between different uses and provide focal points and anchors for pedestrian activity. The required open space shall:

- a) Adjoin a public sidewalk or major pedestrian circulation area and shall be accessible to the public during daylight hours;
- b) Include a combination of public and semi-public gathering spaces, such as plazas, tied together through a linear green corridor along its center;
- c) Include a buffer of landscape plantings along I-494 or other physical barriers to enhance the community's image and to buffer uses from noise or other nuisances;
- d) Be used for treatment of stormwater, only if it is designed as part of the overall open space system such that the stormwater treatment or storage is used as a decorative element, and has no negative impact on recreation or the enjoyment of the open space;
- e) Include plazas, or patios that are integrally designed to accentuate the architecture on-site and to tie off-site elements into an overall theme or character by use of decorative pavers, public art, decorative lighting, seating, planters, or other features. Usable open space shall be a minimum of 1,000 square feet in size and a minimum of 20 feet wide in any direction;
- f) Be designed to have good public visibility to encourage pedestrian use of the on site outdoors amenities, while at the same time enhancing the security of such places by placing public entrances on the open space and ground floor windows along the open space; and
- g) Be designed such that, in the City's judgment, the spaces adequately enhance such development and serve as gathering places for visitors, customers, residents, and employees and are consistent with the Comprehensive Plan or any redevelopment plan for the district.

**Subd. 10. Use Transitions.** The following options should be used as use transitions:

- a) When multifamily, office, small-scale retail, pedestrian intensive retail, civic or public uses are planned as part of a mixed use development, the lesser intensive uses or the more community serving uses may be used as transitions to adjacent residential uses.
- b) Larger commercial or office buildings may be mitigated with building façade articulation, by locating parking lots or structures or other potential nuisances away from residential uses, or by stepping down building height in the area immediately adjacent residential uses.
- c) Streets and streetscape can be used as a transition between uses. The distance and separation afforded by the public right-of way, together with streetscape improvements on both sides of the street may be utilized as a transition to adjacent development.
- d) Green spaces, courts, squares, parks, plazas, etc. may be used to create a meaningful transition between uses.
- e) In situations where the above do not provide adequate transition, additional landscaping may be required as determined by the Director.

**537.13. - Nonconformities.**

**Subdivision 1. Expansion of Nonconforming Uses.** Existing legal nonconforming uses may be maintained according to City Code Subsection 509.25. The City Council may allow expansion of legal nonconforming uses through issuance of a conditional use permit. Expansion may be allowed up to ten (10) percent of the gross floor area provided the expansion meets all other applicable City requirements. Any expansion or modification of a legal nonconforming use should not significantly impede implementation of goals and policies of the Comprehensive Plan.

**Subd. 2. Expansion of Dimensional or Bulk Nonconformities.** Legally nonconforming buildings existing prior to February 19, 2006, that do not meet dimensional or bulk standards of the Mixed Use zoning district may be expanded through review and approval of a conditional use permit-Subsection 547.09. Expansion or modification of a legally nonconforming building shall:

- a) Not increase the overall, site-wide degree of nonconformity,
- b) Demonstrate that zoning and Comprehensive Plan requirements are met to the greatest degree practical. These requirements include, but are not limited to: parking, landscaping, architectural design and façade treatment, and site design;
- c) Off-set departures from zoning and Comprehensive Plan requirements through superior design and/or additional community/site amenities;
- d) Not significantly impede implementation of goals and policies of the Comprehensive Plan;
- e) Not have undue adverse impacts on neighboring residential properties;
- f) Not have undue adverse impacts on governmental facilities, utilities, services or existing or proposed improvements; and
- g) Not have undue adverse impacts on the public health, safety or welfare.

(Amended, Bill No. 2011-13, 2011-28)

Section 2                      Subsection 512.09 of the Richfield City Code relating to *Permitted, Conditional, Accessory and Prohibited Uses in Mixed-Use Districts* is amended by repealing the current table and replacing it with the following:

| Land Use  | MU-N | MU-C | MU-R |
|---|------|------|------|
| <b>Residential</b>                              |      |      |      |
| Assisted living facilities, nursing, rest homes | P    | P    | N    |

|  |   |   |                              |
|--|---|---|------------------------------|
| Dwelling, multifamily (min. 3 units)   | P | P | P (but see 537.07, Subd. 2a) |
| Dwelling, townhouse  | P | N | N                            |
| Live-work units  | P | P | N                            |
| <b>Commercial, Institutional and Public</b>  |   |   |                              |
| Adult business establishments as defined and regulated under City Code Subsection 1196 | N | P | P                            |
| Animal kennels   | C | C | C                            |
| Assembly and manufacturing accessory and subordinate to a retail use                   | N | A | A                            |
| Auto detailing   | N | C | C                            |
| Auto mechanical or body repair shops   | N | C | C                            |
| Auto rental facilities accessory to a primary office or hotel use                      | N | A | A                            |
| Auto sales or lease - new vehicles   | N | N | C                            |
| Convenience store  | P | P | P                            |
| Day care facilities  | P | P | P                            |
| Drive-up window or teller service  | N | C | C                            |
| Firearms related uses  | N | N | C                            |
| Funeral homes, mortuaries  | N | P | N                            |
| Government buildings   | A | P | A                            |
| Health or athletic clubs, spas, yoga studios   | P | P | P                            |
| Hospitals  | N | N | P                            |
| Hotel/motel (defined as 6 or more rooms)   | N | P | P                            |
| Libraries, public  | P | P | N                            |
| Marijuana (medical) dispensaries   | N | N | N                            |
| Marijuana (recreational) sales outlets   | N | N | N                            |
| Micro-production facility (micro-brewery/micro-distillery)                             | N | C | C                            |
| Offices and clinics  | P | P | P                            |
| Public utilities, major  | N | C | C                            |
| Public utilities, minor  | A | A | A                            |
| Religious institutions   | P | P | A                            |

|  |   |     |     |
|--|---|-----|-----|
| Restaurant Class I (serving alcohol)             | N | C   | P   |
| Restaurant Class II (traditional/cafeteria)      | P | P   | P   |
| Restaurant Class III (fast food with drive-thru) | N | C   | C   |
| Restaurant Class IV (take out only)              | P | P   | P   |
| Retail services, General                         | C | P   | P   |
| Retail services, Neighborhood                    | P | P   | P   |
| Retail services, Regional                        | N | C   | P   |
| Schools, public or private                       | P | P   | C   |
| Service station/Convenience store                | N | C   | C   |
| Taproom/Cocktail room                            | N | A/C | A/C |
| Tattoo shops                                     | N | P   | P   |
| Theaters, movie, or live entertainment           | N | N   | P   |
| Transit Facilities                               | A | A   | A   |

\*Conditions apply, see section 537 for complete regulations.

(Amended, Bill No. 2011-13; 2011-19; 2014-4; 2015-5; 2015-15; 2019-\_\_)

Section 3                    This Ordinance is effective in accordance with Section 3.09 of the Richfield City Charter.

Passed by the City Council of the City of Richfield, Minnesota this 28th day of May, 2019.

\_\_\_\_\_  
Maria Regan Gonzalez, Mayor

ATTEST:

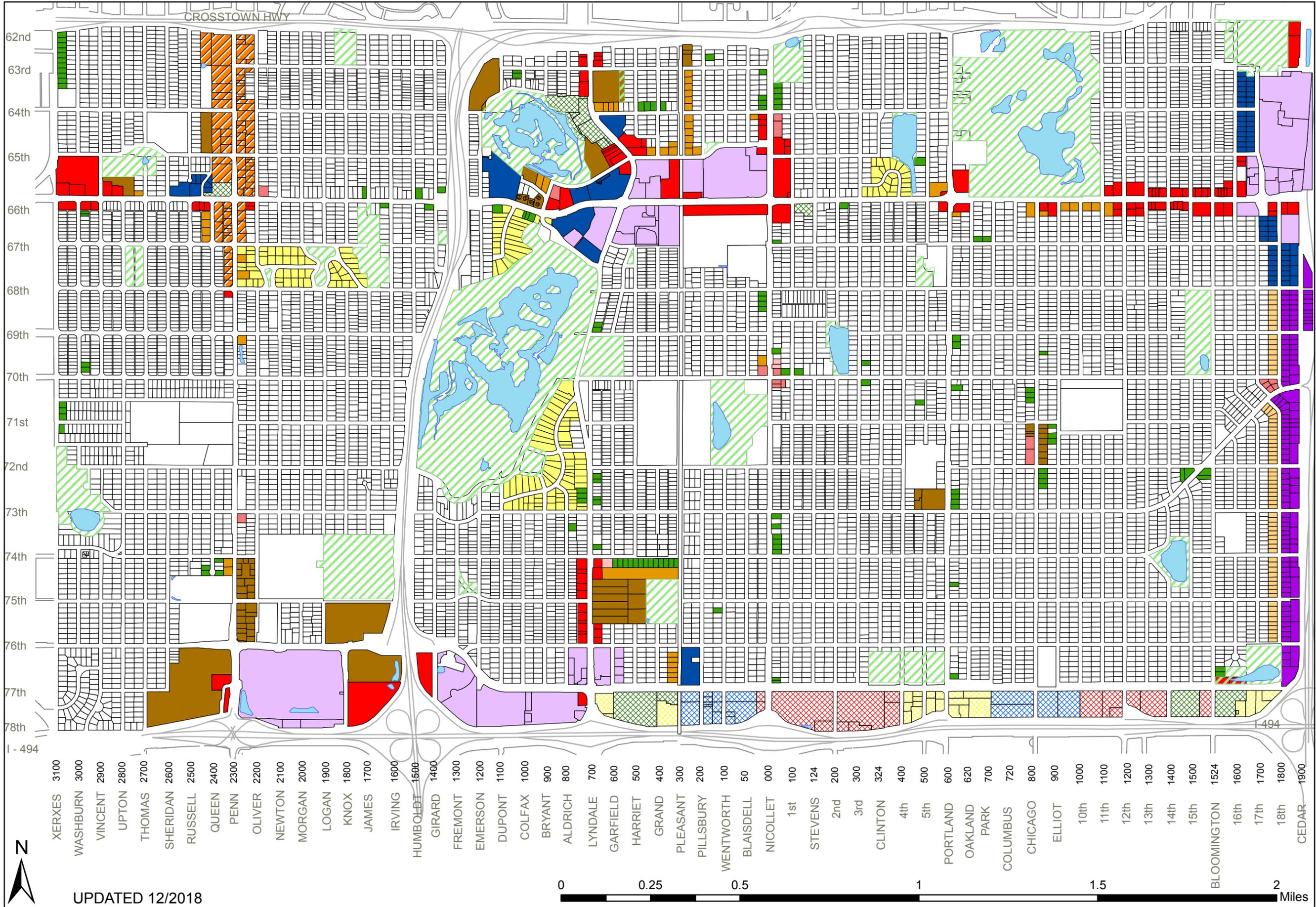
\_\_\_\_\_  
Elizabeth VanHoose, City Clerk

# Richfield Zoning Map

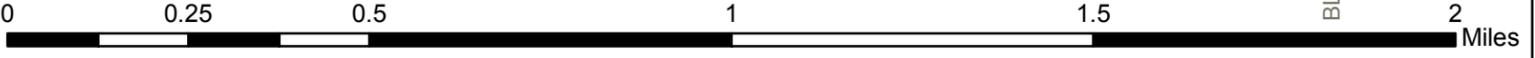


## Zoning Designation

- Park (Zoning District is R)
- R Single-Family
- R-1 Low-Density Single-Family
- MR-1 Two-Family
- PMR Planned Multi-Family
- MR-2 Multi-Family
- MR-2/CAC Multi-Fam + Cedar Overlay
- MR-3 High-Density Multi-Family
- SO Service Office
- C-1 Community Commercial
- C-2 General Commercial
- PC-2 Planned General Commercial
- PMU Planned Mixed Use
- MU-C Mixed Use-Community
- MU-C/CAC Mixed Use + Cedar Overlay
- MU-C/PAC Mixed Use + Penn Overlay
- MU-N Mixed Use-Neighborhood
- MU-R Mixed Use-Regional
- I Industrial

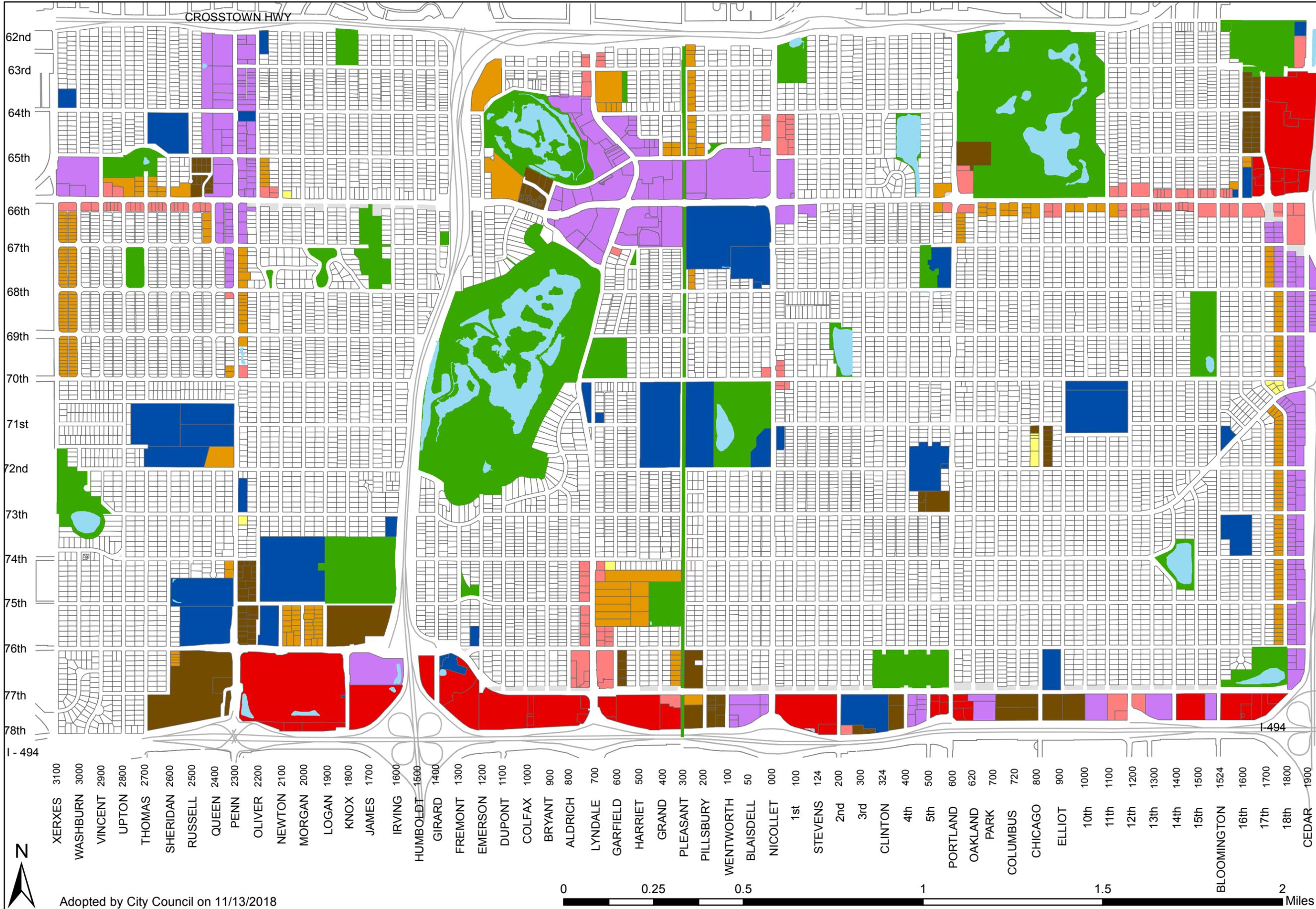


UPDATED 12/2018



XERXES 3100  
 WASHBURN 3000  
 VINCENT 2900  
 UPTON 2800  
 THOMAS 2700  
 SHERIDAN 2600  
 RUSSELL 2500  
 QUEEN 2400  
 PENN 2300  
 OLIVER 2200  
 NEWTON 2100  
 MORGAN 2000  
 LOGAN 1900  
 KNOX 1800  
 JAMES 1700  
 IRVING 1600  
 HUMBOLDT 1500  
 GIRARD 1400  
 FREMONT 1300  
 EMERSON 1200  
 DUPONT 1100  
 COLFAX 1000  
 BRYANT 900  
 ALDRICH 800  
 LYNDALDE 700  
 GARFIELD 600  
 HARRIET 500  
 GRAND 400  
 PLEASANT 300  
 PILLSBURY 200  
 WENTWORTH 100  
 BLAISDELL 50  
 NICOLLET 000  
 1st 100  
 STEVENS 124  
 2nd 200  
 3rd 300  
 324 324  
 4th 400  
 5th 500  
 600 600  
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 CEDAR 1900

# 2040 Comprehensive Plan - Planned Land Use

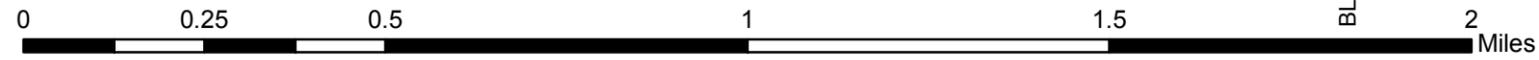


## 2040 Planned Land Use

- Mixed Use
- Regional Commercial
- Community Commercial
- Neighborhood Commercial
- High Density Residential
- Medium Density Residential
- Low Density Residential
- Park
- Quasi-Public
- Right-of-Way (ROW)



Adopted by City Council on 11/13/2018





**STAFF REPORT NO. 68**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Chris Regis, Finance Director

DEPARTMENT DIRECTOR REVIEW: Chris Regis, Finance Director  
5/7/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider adoption of a resolution awarding the sale of \$8,865,000 General Obligation Bonds, Series 2019A.**

**EXECUTIVE SUMMARY:**

Included within the City's 5-Year Street Reconstruction Plan, adopted by the City Council on July 10, 2018, are two projects, the reconstruction of 66th Street and the reconstruction of Lyndale Avenue.

The 66th Street project is a county road project and 2019 will be year three of construction. The project is estimated to cost \$61,292,000. The City's cost share includes 25% of road construction, 66% of storm sewer, 100% of water/sewer utility replacement, and any additional streetscape elements not cost shared by the County. The project has included reconstruction of failing pavement, the replacement of City utilities, undergrounding of parallel overhead utility lines, and improved bicycle and pedestrian accommodations. The project also addresses safety and traffic flow concerns through the use of additional medians and roundabouts. Funding for the 66th Street project is provided by the combination of the issuance of street reconstruction bonds, general obligation bonds, Municipal State Aid, Federal grants, County and local funding and utility rate payers.

The Lyndale Avenue project will reconstruct the roadway between 67th Street and 76th Street and include the replacement of City utilities. Funding will be provided by the issuance of general obligation bonds, Municipal State Aid, and utility rate payers.

The City previously issued for the 66th Street project \$9,130,000 G.O. Street Reconstruction Bonds, Series 2017A and \$9,770,000 G.O. Street Reconstruction Bonds, Series 2018A, of which \$4,000,000 was for the 66th Street project.

The par amount of the new bond will be \$8,865,000. The par amount is net of a \$1,000,000 cash contribution from the City. The source of the cash contribution is Local Government Aid set aside funds. Debt service for the 2019A bonds will be provided by an estimated annual debt service tax levy of \$477,390 and a \$151,340 contribution from the City's utility funds. The estimated annual increase in taxes from the issuance to the 2019A bonds for a residential property valued at \$230,000 is estimated to be \$29.94.

Bids on the 2019A General Obligation Bonds are due in the offices of Ehlers & Associates, Inc. on Tuesday May 14, 2019. A representative from Ehlers & Associates, Inc. will be at the City Council meeting to recommend the successful bidder and review attached documents, and provide information that is absent from the resolution and available only after the bidding on the bonds has closed. Following Ehlers & Associates, Inc. recommendation it would be appropriate for the City Council to award the bond sale to the qualified buyer and undertake other related actions as necessary as delineated in the approving resolution. The anticipated closing on the 2019A Bonds is scheduled for May 23, 2019.

**RECOMMENDED ACTION:**

**By motion: Adopt a resolution awarding the sale of General Obligation Bonds, Series 2019A, in the original aggregate principal amount of \$8,865,000; Fixing their form and specifications; Directing their execution and delivery; and providing for their payment.**

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The 66th Street project began in 2017 and should be completed in 2019.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The 66th Street Reconstruction project and the Lyndale Avenue project are part of the 5-Year Street Reconstruction Plan approved by the City Council on July 10, 2018.

**C. CRITICAL TIMING ISSUES:**

- Construction for the both projects is expected to begin in mid to late April 2019 or as weather permits. Therefore, it is important to have the necessary financing in place.

**D. FINANCIAL IMPACT:**

- The estimated total cost of the Lyndale Avenue project is \$10,000,000.
- Funding for the project is to be provided by general obligation bonds, Municipal State Aid funds and Xcel rate payers. Estimated funding and costs is as follows:

|  |              |
|--|--------------|
| 2019 General Obligation Bonds (Net of Par) | \$7,500,000  |
| 2020 General Obligation Bonds (Net of Par) | 2,000,000    |
| Municipal State Aid                        | 450,000      |
| Xcel Rate Payers                           | 50,000       |
| Total Funding                              | \$10,000,000 |

|                       |              |
|-----------------------|--------------|
| Street Reconstruction | \$6,822,000  |
| Utility               | 3,178,000    |
| Total Project Cost    | \$10,000,000 |

- The estimated total cost of the 66th Street Reconstruction Project is \$61,292,000.
- Funding for the project will be provided as follows:

|   |              |
|---|--------------|
| 2017 Street Reconstruction Bonds (Net of Par) | \$9,000,000  |
| 2018 Street Reconstruction Bonds (Net of Par) | 4,000,000    |
| 2019 General Obligation Bonds (Net of Par)    | 2,200,000    |
| Municipal State Aid                           | 8,200,000    |
| Federal Funds                                 | 9,632,000    |
| Hennepin County                               | 26,500,000   |
| Overhead Utility Rate Payers                  | 1,325,000    |
| Other   | 435,000      |
| Total Funding                                 | \$61,292,000 |

- 
- The par amount of the 2019 bonds to be issued is \$8,865,000 which is net of the \$1,000,000 City cash contribution.
  - The City will contribute \$1,000,000 of Local Government Aid set aside funds to buy down the par amount of the bonds.
  - The debt service on the bonds will be provided from an annual debt service tax levy and an annual contribution from the City's utility funds of \$151,340.
  - The average annual estimated tax levy will be \$477,390.
  - The estimated annual increase in taxes due to the issuance of these bonds for a residential property valued at \$230,000 will be approximately \$29.94.
  - The final bonding for the Lyndale Avenue Street Reconstruction project will occur in 2020.

**E. LEGAL CONSIDERATION:**

- Legal counsel has been involved in the bond sale transactions as bond counsel to the City.

**ALTERNATIVE RECOMMENDATION(S):**

- None

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

Rebecca Kurtz, Ehlers & Associates, Inc.

**ATTACHMENTS:**

|   | Description | Type              |
|---|-------------|-------------------|
| ▢ | Resolution  | Resolution Letter |

Extract of Minutes of Meeting  
of the City Council of the City of  
Richfield, Hennepin County, Minnesota

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Richfield, Minnesota, was duly held in the Municipal Center in said City on Tuesday, May 14, 2019, commencing at 7:00 P.M.

The following members were present:

and the following were absent:

\* \* \*

\* \* \*

\* \* \*

The Mayor announced that the next order of business was consideration of the proposals which had been received for the purchase of the City's General Obligation Bonds, Series 2019A, to be issued in the aggregate principal amount of \$8,865,000.

The City Manager presented a tabulation of the proposals that had been received in the manner specified in the Terms of Proposal for the Bonds. The proposals were as set forth in EXHIBIT A attached.

After due consideration of the proposals, Member \_\_\_\_\_ then introduced the following written resolution, the reading of which was dispensed with by unanimous consent, and moved its adoption:

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AWARDED THE SALE OF GENERAL OBLIGATION BONDS, SERIES 2019A, IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,865,000; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; AND PROVIDING FOR THEIR PAYMENT**

BE IT RESOLVED By the City Council of the City of Richfield, Hennepin County, Minnesota (the "City") as follows:

Section 1. Sale of Bonds.

1.01. Street Reconstruction Bonds.

(a) Pursuant to Minnesota Statutes, Chapter 475, as amended, specifically Section 475.58, subdivision 3b (the "Street Reconstruction Act"), the City is authorized to finance all or a portion of the cost of street reconstruction projects by the issuance of general bonds of the City payable from ad valorem taxes.

(b) On July 10, 2018, following a duly noticed public hearing, the City Council of the City adopted a five-year street reconstruction plan (the "Street Reconstruction Plan") describing the streets to be reconstructed, estimated costs, and any planned reconstruction of other streets in the City and approved the issuance of obligations by vote of all of the members thereof, all pursuant to the Street Reconstruction Act (as then in effect).

(c) Expenditures described in the Street Reconstruction Plan for 2019 include the Lyndale Avenue Project and the 66<sup>th</sup> Street Reconstruction Project (the "Street Reconstruction"). The City estimates that the total cost of the Street Reconstruction for 2019 is \$5,970,000.

(d) The City Council has determined that, within thirty (30) days after the hearing, no petition for a referendum on the issuance of bonds to pay costs of the Street Reconstruction was received by the City in accordance with the Street Reconstruction Act.

(e) It is necessary and expedient to the sound financial management of the affairs of the City to issue general obligations in the aggregate principal amount of \$5,970,000 (the "Street Reconstruction Bonds"), pursuant to the Street Reconstruction Act, to provide financing for the Street Reconstruction.

(f) Proceeds of the Street Reconstruction Bonds in the amount of \$3,770,000 are allocated to the Lyndale Avenue Project, and proceeds of the Street Reconstruction Bonds in the amount of \$2,200,000 are allocated to the 66<sup>th</sup> Street Reconstruction Project. If any proceeds of the Street Reconstruction Bonds or City cash contributions allocated to the 66<sup>th</sup> Street Reconstruction Project remain unspent following the completion of the 66<sup>th</sup> Street Reconstruction Project, such unspent proceeds or cash contribution may be used for the Lyndale Avenue Project.

1.02. Utility Revenue Bonds.

(a) The City engineer has recommended the construction of various improvements to the City's water, sewer, and storm sewer systems as part of the Street Reconstruction (the "Utility Improvements").

(b) It is necessary and expedient to the sound financial management of the affairs of the City to issue general obligations in the aggregate principal amount of \$2,895,000 (the "Utility Revenue Bonds"), pursuant to Minnesota Statutes, Chapters 444 and 475, as amended (collectively, the "Utility Revenue Act"), to provide financing for the Utility Improvements.

1.03. Issuance of General Obligation Bonds.

(a) The City Council finds it necessary and expedient to the sound financial management of the affairs of the City to issue its General Obligation Bonds, Series 2019A (the "Bonds"), in the original aggregate principal amount of \$8,865,000, pursuant to the Street Reconstruction Act and the Utility Revenue Act (together, the "Act"), to provide financing for the Street Reconstruction and the Utility Improvements.

(b) The City is authorized by Section 475.60, subdivision 2(9) of the Act to negotiate the sale of the Bonds, it being determined that the City has retained an independent municipal advisor in connection with such sale. The actions of the City staff and municipal advisor in negotiating the sale of the Bonds are ratified and confirmed in all aspects.

1.04. Award to the Purchaser and Interest Rates. The proposal of \_\_\_\_\_ (the "Purchaser") to purchase the Bonds is hereby found and determined to be a reasonable offer and is hereby accepted, the proposal being to purchase the Bonds at a price of \$\_\_\_\_\_ (par amount of \$8,865,000, [plus original issue premium of \$\_\_\_\_\_,] [less original issue discount \$\_\_\_\_\_,] less underwriter's discount of \$\_\_\_\_\_), plus accrued interest to date of delivery, if any, for Bonds bearing interest as follows:

| <u>Year</u> | <u>Interest Rate</u> | <u>Year</u> | <u>Interest Rate</u> |
|-------------|----------------------|-------------|----------------------|
| 2021        | %                    | 2031        | %                    |
| 2022        |                      | 2032        |                      |
| 2023        |                      | 2033        |                      |
| 2024        |                      | 2034        |                      |
| 2025        |                      | 2035        |                      |
| 2026        |                      | 2036        |                      |
| 2027        |                      | 2037        |                      |
| 2028        |                      | 2038        |                      |
| 2029        |                      | 2039        |                      |
| 2030        |                      | 2040        |                      |

True interest cost: \_\_\_\_\_%

1.05. Purchase Contract. The sum of \$\_\_\_\_\_, being the amount proposed by the Purchaser in excess of \$8,776,350, shall be credited to the accounts of the Debt Service Fund hereinafter created or deposited in the accounts of the Construction Fund hereinafter created, as determined by the Finance Director of the City in consultation with the City's municipal advisor. The Finance Director is directed to retain the good faith check of the Purchaser, pending completion of the sale of the Bonds, and to return the good faith

checks of the unsuccessful proposers. The Mayor and City Manager are directed to execute a contract with the Purchaser on behalf of the City.

1.06. Terms and Principal Amounts of the Bonds. The City will forthwith issue and sell the Bonds pursuant to the Act, in the total principal amount of \$8,865,000, originally dated June 6, 2019, in the denomination of \$5,000 each or any integral multiple thereof, numbered No. R-1, upward, bearing interest as above set forth, and maturing serially on February 1 in the years and amounts as follows:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2021        | \$            | 2031        | \$            |
| 2022        |               | 2032        |               |
| 2023        |               | 2033        |               |
| 2024        |               | 2034        |               |
| 2025        |               | 2035        |               |
| 2026        |               | 2036        |               |
| 2027        |               | 2037        |               |
| 2028        |               | 2038        |               |
| 2029        |               | 2039        |               |
| 2030        |               | 2040        |               |

(a) \$5,970,000 of the Bonds, constituting the Street Reconstruction Bonds, maturing on February 1 of the years and in the amounts set forth below, will be used to finance the Street Reconstruction:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2021        | \$            | 2031        | \$            |
| 2022        |               | 2032        |               |
| 2023        |               | 2033        |               |
| 2024        |               | 2034        |               |
| 2025        |               | 2035        |               |
| 2026        |               | 2036        |               |
| 2027        |               | 2037        |               |
| 2028        |               | 2038        |               |
| 2029        |               | 2039        |               |
| 2030        |               | 2040        |               |

(b) The remainder of the Bonds in the principal amount of \$2,895,000, constituting the Utility Revenue Bonds, maturing on February 1 of the years and in the amounts set forth below, will be used to finance the construction of the Utility Improvements:

| <u>Year</u> | <u>Amount</u> | <u>Year</u> | <u>Amount</u> |
|-------------|---------------|-------------|---------------|
| 2021        | \$            | 2031        | \$            |
| 2022        |               | 2032        |               |
| 2023        |               | 2033        |               |
| 2024        |               | 2034        |               |
| 2025        |               | 2035        |               |
| 2026        |               | 2036        |               |
| 2027        |               | 2037        |               |
| 2028        |               | 2038        |               |
| 2029        |               | 2039        |               |
| 2030        |               | 2040        |               |

1.07. Optional Redemption. The City may elect on February 1, 2028, and on any day thereafter to prepay Bonds due on or after February 1, 2029. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify DTC (as defined in Section 7 hereof) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

**[TO BE COMPLETED IF TERM BONDS ARE REQUESTED: 1.08. Mandatory Redemption; Term Bonds.** The Bonds maturing on February 1, 20\_\_ and February 1, 20\_\_ shall hereinafter be referred to collectively as the "Term Bonds." The principal amount of the Term Bonds subject to mandatory sinking fund redemption on any date may be reduced through earlier optional redemptions, with any partial redemptions of the Term Bonds credited against future mandatory sinking fund redemptions of such Term Bonds in such order as the City shall determine. The Term Bonds are subject to mandatory sinking fund redemption and shall be redeemed in part at par plus accrued interest on February 1 of the following years and in the principal amounts as follows:]

Sinking Fund Installment Date

February 1, 20\_\_ Term Bond

Principal Amount

\_\_\_\_\_  
\* *Maturity*

February 1, 20\_\_ Term Bond

Principal Amount

\_\_\_\_\_  
\* *Maturity*

Section 2. Registration and Payment.

2.01. Registered Form. The Bonds will be issued only in fully registered form. The interest thereon and, upon surrender of each Bond, the principal amount thereof, is payable by check or draft issued by the Registrar described herein.

2.02. Dates; Interest Payment Dates. Each Bond will be dated as of the last interest payment date preceding the date of authentication to which interest on the Bond has been paid or made available for payment, unless (i) the date of authentication is an interest payment date to which interest has been paid or made available for payment, in which case the Bond will be dated as of the date of authentication, or (ii) the date of authentication is prior to the first interest payment date, in which case the Bond will be dated as of the date of original issue. The interest on the Bonds is payable on February 1 and August 1 of each year, commencing February 1, 2020, to the registered owners of record thereof as of the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day.

2.03. Registration. The City will appoint a bond registrar, transfer agent, authenticating agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto are as follows:

(a) Register. The Registrar must keep at its principal corporate trust office a bond register in which the Registrar provides for the registration of ownership of Bonds and the registration of transfers and exchanges of Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Bonds. Upon surrender for transfer of a Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar will authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer after the fifteenth day of the month preceding each interest payment date and until that interest payment date.

(c) Exchange of Bonds. When Bonds are surrendered by the registered owner for exchange the Registrar will authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity as requested by the registered owner or the owner’s attorney in writing.

(d) Cancellation. Bonds surrendered upon transfer or exchange will be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When a Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the Bond until the Registrar is satisfied that the endorsement on the Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name a Bond is registered in the bond register as the absolute owner of the Bond, whether the Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on the Bond and for all other purposes, and payments so made to a registered owner or upon the owner’s order will be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. The Registrar may impose a charge upon the owner thereof for a transfer or exchange of Bonds sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to the transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. If a Bond becomes mutilated or is destroyed, stolen or lost, the Registrar will deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of the mutilated Bond or in lieu of and in substitution for any Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that the Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the City and the Registrar must be named as obligees. Bonds so surrendered to the Registrar will be cancelled by the Registrar and evidence of such cancellation must be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or been called for redemption in accordance with its terms it is not necessary to issue a new Bond prior to payment.

(i) Redemption. In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Registrar and by publishing the notice if required by law. Failure to give notice by publication or by mail to any registered owner, or any defect therein, will not affect the validity of the proceedings for the redemption of Bonds. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

2.04. Appointment of Initial Registrar. The City appoints Bond Trust Services Corporation, Roseville, Minnesota, as the initial Registrar. The Mayor and the City Manager are authorized to execute and deliver, on behalf of the City, a contract with the Registrar. Upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, the resulting corporation is authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove the Registrar upon thirty (30) days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar must deliver all cash and Bonds in its possession to the successor Registrar and must deliver the bond register to the successor Registrar. On or before each principal or interest due date, without further order of the City Council, the Finance Director must transmit to the Registrar moneys sufficient for the payment of all principal and interest then due.

2.05. Execution, Authentication and Delivery. The Bonds will be prepared under the direction of the Finance Director and executed on behalf of the City by the signatures of the Mayor and the City Manager, provided that those signatures may be printed, engraved or lithographed facsimiles of the originals. If an officer whose signature or a facsimile of whose signature appears on the Bonds ceases to be such officer before the delivery of a Bond, that signature or facsimile will nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until delivery. Notwithstanding such execution, a Bond will not be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on the Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on a Bond is conclusive evidence that it has been authenticated and delivered under this resolution. When the Bonds have been so prepared, executed and authenticated, the Finance Director will deliver the same to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser is not obligated to see to the application of the purchase price.

Section 3. Form of Bond.

3.01. Execution of the Bonds. The Bonds will be printed or typewritten in substantially the form set forth in EXHIBIT B.

3.02. Approving Legal Opinion. The City Manager is authorized and directed to obtain a copy of the proposed approving legal opinion of Kennedy & Graven, Chartered, Minneapolis, Minnesota, and cause the opinion to be printed on or accompany each Bond.

Section 4. Payment; Security; Pledges and Covenants.

4.01. Debt Service Fund. The Bonds will be payable from the General Obligation Bonds, Series 2019A Debt Service Fund (the “Debt Service Fund”) hereby created. The Debt Service Fund shall be administered and maintained by the Finance Director as a bookkeeping account separate and apart from all other funds maintained in the official financial records of the City. The City will maintain the following accounts in the Debt Service Fund: the “Street Reconstruction Account” and the “Utility Improvements Account.” Amounts in the Street Reconstruction Account are irrevocably pledged to the Street Reconstruction Bonds, and amounts in the Utility Improvements Account are irrevocably pledged to the Utility Revenue Bonds.

(a) Street Reconstruction Account. The Finance Director shall timely deposit in the Street Reconstruction Account of the Debt Service Fund the ad valorem taxes levied herein for the Street Reconstruction (the “Taxes”), which Taxes are pledged to the Street Reconstruction Account. There is also appropriated to the Street Reconstruction Account a pro rata portion of (i) capitalized interest financed from the proceeds of the Bonds, if any; and (ii) amounts over the minimum purchase price paid by the Purchaser, to the extent designated for deposit in the Debt Service Fund in accordance with Section 1.05 hereof.

(b) Utility Improvements Account. The City will continue to maintain and operate its Water Fund, Sewer Fund, and Storm Sewer Fund, to which will be credited all gross revenues of the water system, the sewer system, and the storm sewer system, respectively, and out of which will be paid all normal and reasonable expenses of current operations of such systems. Any balances therein are deemed net revenues (the “Net Revenues”) and will be transferred, from time to time, to the Utility Improvements Account of the Debt Service Fund, which Utility Improvements Account will be used only to pay principal of and interest on the Utility Revenue Bonds and any other bonds similarly authorized. There will always be retained in the Utility Improvements Account a sufficient amount to pay principal of and interest on all the Utility Revenue Bonds, and the Finance Director must report any current or anticipated deficiency in the Utility Improvements Account to the City Council. There is also appropriated to the Utility Improvements Account a pro rata portion of (i) capitalized interest financed from Bond proceeds, if any; and (ii) amounts over the minimum purchase price of the Bonds paid by the Purchaser, to the extent designated for deposit in the Debt Service Fund in accordance with Section 1.05 hereof.

4.02. Construction Fund. The City hereby creates the General Obligation Bonds, Series 2019A Construction Fund (the “Construction Fund”). The City will maintain the following accounts in the Construction Fund: the “Street Reconstruction Account” and the “Utility Improvements Account.” Amounts in the Street Reconstruction Account are irrevocably pledged to the Street Reconstruction Bonds, and amounts in the Utility Improvements Account are irrevocably pledged to the Utility Revenue Bonds.

(a) Street Reconstruction Account. Proceeds of the Street Reconstruction Bonds, less the appropriations made in Section 4.01(a) hereof, together with the Taxes and any other funds

appropriated for the Street Reconstruction collected during the Street Reconstruction, will be deposited in the Street Reconstruction Account of the Construction Fund to be used solely to defray expenses of the Street Reconstruction and the payment of principal and interest on the Street Reconstruction Bonds prior to the completion and payment of all costs of the Street Reconstruction. When the Street Reconstruction is completed and the cost thereof paid, the Street Reconstruction Account of the Construction Fund is to be closed and any funds remaining may be deposited in the Street Reconstruction Account of the Debt Service Fund. Notwithstanding the foregoing, following the completion of the 66<sup>th</sup> Street Reconstruction Project, any unspent proceeds of the Street Reconstruction Bonds or City cash contributions allocated to the 66<sup>th</sup> Street Reconstruction Project may be used to finance the Lyndale Avenue Project.

(b) Utility Improvements Account. Proceeds of the Utility Revenue Bonds, less the appropriations made in Section 4.01(b) hereof, will be deposited in the Utility Improvements Account of the Construction Fund to be used solely to defray expenses of the Utility Improvements. When the Utility Improvements are completed and the cost thereof paid, the Utility Improvements Account of the Construction Fund is to be closed and any funds remaining may be deposited in the Utility Improvements Account of the Debt Service Fund.

4.03. City Covenants with Respect to the Utility Revenue Bonds. The City Council covenants and agrees with the holders of the Bonds that so long as any of the Bonds remain outstanding and unpaid, it will keep and enforce the following covenants and agreements:

(a) The City will continue to maintain and efficiently operate the water system, the sewer system, and the storm sewer system as public utilities and conveniences free from competition of other like municipal utilities and will cause all revenues therefrom to be deposited in bank accounts and credited to the Water Fund, the Sewer Fund, and the Storm Sewer Fund, respectively, as hereinabove provided, and will make no expenditures from those accounts except for a duly authorized purpose and in accordance with this resolution.

(b) The City will also maintain the Utility Improvements Account of the Debt Service Fund as a separate account and will cause money to be credited thereto from time to time, out of Net Revenues from the water system, the sewer system, and the storm sewer system in sums sufficient to pay principal of and interest on the Utility Revenue Bonds when due.

(c) The City will keep and maintain proper and adequate books of records and accounts separate from all other records of the City in which will be complete and correct entries as to all transactions relating to the water system, the sewer system, and the storm sewer system and which will be open to inspection and copying by any Bondholder, or the Bondholder's agent or attorney, at any reasonable time, and it will furnish certified transcripts therefrom upon request and upon payment of a reasonable fee therefor, and said account will be audited at least annually by a qualified public accountant and statements of such audit and report will be furnished to all Bondholders upon request.

(d) The City Council will cause persons handling revenues of the water system, the sewer system, and the storm sewer system to be bonded in reasonable amounts for the protection of the City and the Bondholders and will cause the funds collected on account of the operations of such system to be deposited in a bank whose deposits are guaranteed under the Federal Deposit Insurance Law.

(e) The City Council will keep the water system, the sewer system, and the storm sewer system insured at all times against loss by fire, tornado and other risks customarily insured

against with an insurer or insurers in good standing, in such amounts as are customary for like plants, to protect the holders, from time to time, of the Bonds and the City from any loss due to any such casualty and will apply the proceeds of such insurance to make good any such loss.

(f) The City and each and all of its officers will punctually perform all duties with reference to the water system, the sewer system, and the storm sewer system as required by law.

(g) The City will impose and collect charges of the nature authorized by Section 444.075 of the Utility Revenue Act, at the times and in the amounts required to produce Net Revenues adequate to pay all principal and interest when due on the Utility Revenue Bonds and to create and maintain such reserves securing said payments as may be provided herein.

(h) The City Council will levy general ad valorem taxes on all taxable property in the City when required to meet any deficiency in Net Revenues.

4.04. General Obligation Pledge. For the prompt and full payment of the principal of and interest on the Bonds, as the same respectively become due, the full faith, credit and taxing powers of the City will be and are hereby irrevocably pledged. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds and any other bonds payable therefrom, the deficiency will be promptly paid out of monies in the general fund of the City which are available for such purpose, and such general fund may be reimbursed with or without interest from the Debt Service Fund when a sufficient balance is available therein.

4.05. Pledge of Tax Levy. For the purpose of paying the principal of and interest on the Street Reconstruction Bonds, there is levied a direct annual irrevocable ad valorem tax upon all of the taxable property in the City, which will be spread upon the tax rolls and collected with and as part of other general taxes of the City. The Taxes will be credited to the Street Reconstruction Account of the Debt Service Fund above provided and will be in the years and amounts as attached hereto as EXHIBIT C.

4.06. Certification to Taxpayer Services Division Manager as to Debt Service Fund Amount. It is hereby determined that the estimated collections of Taxes and Net Revenues will produce at least five percent (5%) in excess of the amount needed to meet when due the principal and interest payments on the Bonds. The tax levy herein provided is irrevocable until all of the Bonds are paid, provided that at the time the City makes its annual tax levies the Finance Director may certify to the Taxpayer Services Division Manager of Hennepin County, Minnesota (the "Taxpayer Services Division Manager") the amount available in the Debt Service Fund to pay principal and interest due during the ensuing year, and the Taxpayer Services Division Manager will thereupon reduce the levy collectible during such year by the amount so certified.

4.07. Registration of Resolution. The City Manager is authorized and directed to file a certified copy of this resolution with the Taxpayer Services Division Manager and to obtain the certificate required by Section 475.63 of the Act.

Section 5.        Authentication of Transcript.

5.01.    City Proceedings and Records. The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to the attorneys approving the Bonds, certified copies of proceedings and records of the City relating to the Bonds and to the financial condition and affairs of the City, and such other certificates, affidavits and transcripts as may be required to show the facts within their knowledge or as shown by the books and records in their custody and under their control, relating to the validity and marketability of the Bonds, and such instruments, including any heretofore furnished, will be deemed representations of the City as to the facts stated therein.

5.02.    Certification as to Official Statement. The Mayor, the City Manager, and the Finance Director are authorized and directed to certify that they have examined the Official Statement prepared and circulated in connection with the issuance and sale of the Bonds and that to the best of their knowledge and belief the Official Statement is a complete and accurate representation of the facts and representations made therein as of the date of the Official Statement.

5.03.    Other Certificates. The Mayor, the City Manager, and the Finance Director are hereby authorized and directed to furnish to the Purchaser at the closing such certificates as are required as a condition of sale. Unless litigation shall have been commenced and be pending questioning the Bonds or the organization of the City or incumbency of its officers, at the closing the Mayor, the City Manager, and the Finance Director shall also execute and deliver to the Purchaser a suitable certificate as to absence of material litigation, and the Finance Director shall also execute and deliver a certificate as to payment for and delivery of the Bonds.

5.04.    Payment of Costs of Issuance. The City authorizes the Purchaser to forward the amount of Bond proceeds allocable to the payment of issuance expenses to KleinBank, Chaska, Minnesota on the closing date for further distribution as directed by the City's municipal advisor, Ehlers and Associates, Inc.

Section 6.        Tax Covenant.

6.01.    Tax-Exempt Bonds. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bonds to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Bonds.

6.02.    Rebate. The City will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Bonds under Section 103 of the Code, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Bonds, and the rebate of excess investment earnings to the United States.

6.03.    Not Private Activity Bonds. The City further covenants not to use the proceeds of the Bonds or to cause or permit them or any of them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

6.04. Qualified Tax-Exempt Obligations. In order to qualify the Bonds as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

- (a) the Bonds are not “private activity bonds” as defined in Section 141 of the Code;
- (b) the City designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;
- (c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds that are not qualified 501(c)(3) bonds) which will be issued by the City (and all subordinate entities of the City) during calendar year 2019 will not exceed \$10,000,000; and
- (d) not more than \$10,000,000 of obligations issued by the City during calendar year 2019 have been designated for purposes of Section 265(b)(3) of the Code.

6.05. Procedural Requirements. The City will use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designations made by this section.

Section 7. Book-Entry System; Limited Obligation of City.

7.01. DTC. The Bonds will be initially issued in the form of a separate single typewritten or printed fully registered Bond for each of the maturities set forth in Section 1.06 hereof. Upon initial issuance, the ownership of each Bond will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in this section, all of the outstanding Bonds will be registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC.

7.02. Participants. With respect to Bonds registered in the registration books kept by the Registrar in the name of Cede & Co., as nominee of DTC, the City, the Registrar and the Paying Agent will have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (the “Participants”) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person (other than a registered owner of Bonds, as shown by the registration books kept by the Registrar), of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City, the Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Registrar as the holder and absolute owner of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bonds, and for all other purposes. The Paying Agent will pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Registrar, and all such payments will be valid and effectual to fully satisfy and discharge the City’s obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Registrar, will receive a certificated Bond evidencing the obligation of this resolution. Upon delivery by DTC to the City Manager of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the words “Cede & Co.” will refer to such new nominee of DTC; and upon receipt of such a notice, the City Manager will promptly deliver a copy of the same to the Registrar and Paying Agent.

7.03. Representation Letter. The City has heretofore executed and delivered to DTC a Blanket Issuer Letter of Representations (the “Representation Letter”) which will govern payment of principal of, premium, if any, and interest on the Bonds and notices with respect to the Bonds. Any Paying Agent or Registrar subsequently appointed by the City with respect to the Bonds will agree to take all action necessary for all representations of the City in the Representation Letter with respect to the Registrar and Paying Agent, respectively, to be complied with at all times.

7.04. Transfers Outside Book-Entry System. In the event the City, by resolution of the City Council, determines that it is in the best interests of the persons having beneficial interests in the Bonds that they be able to obtain Bond certificates, the City will notify DTC, whereupon DTC will notify the Participants, of the availability through DTC of Bond certificates. In such event the City will issue, transfer and exchange Bond certificates as requested by DTC and any other registered owners in accordance with the provisions of this resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and discharging its responsibilities with respect thereto under applicable law. In such event, if no successor securities depository is appointed, the City will issue and the Registrar will authenticate Bond certificates in accordance with this resolution and the provisions hereof will apply to the transfer, exchange and method of payment thereof.

7.05. Payments to Cede & Co. Notwithstanding any other provision of this resolution to the contrary, so long as a Bond is registered in the name of Cede & Co., as nominee of DTC, payments with respect to principal of, premium, if any, and interest on the Bond and all notices with respect to the Bond will be made and given, respectively in the manner provided in DTC’s Operational Arrangements, as set forth in the Representation Letter.

#### Section 8. Continuing Disclosure.

8.01. Execution of Continuing Disclosure Certificate. “Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the Mayor and City Manager and dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

8.02. City Compliance with Provisions of Continuing Disclosure Certificate. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Certificate is not to be considered an event of default with respect to the Bonds; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this section.

Section 9. Defeasance. When all Bonds and all interest thereon have been discharged as provided in this section, all pledges, covenants and other rights granted by this resolution to the holders of the Bonds will cease, except that the pledge of the full faith and credit of the City for the prompt and full payment of the principal of and interest on the Bonds will remain in full force and effect. The City may discharge all Bonds which are due on any date by depositing with the Registrar on or before that date a sum sufficient for the payment thereof in full. If any Bond should not be paid when due, it may nevertheless be discharged by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

(The remainder of this page is intentionally left blank.)

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

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

Passed and adopted this 14<sup>th</sup> day of May, 2019.

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Mayor

Attest:

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City Clerk

**EXHIBIT A**  
**PROPOSALS**

**EXHIBIT B**  
**FORM OF BOND**

No. R-\_\_\_\_\_ UNITED STATES OF AMERICA \$\_\_\_\_\_  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
CITY OF RICHFIELD  
  
GENERAL OBLIGATION BOND  
SERIES 2019A

| <u>Rate</u> | <u>Maturity</u>  | <u>Date of<br/>Original Issue</u> | <u>CUSIP</u> |
|-------------|------------------|-----------------------------------|--------------|
|             | February 1, 20__ | June 6, 2019                      |              |

Registered Owner: Cede & Co.

The City of Richfield, Minnesota, a duly organized and existing municipal corporation in Hennepin County, Minnesota (the “City”), acknowledges itself to be indebted and for value received hereby promises to pay to the Registered Owner specified above or registered assigns, the principal sum of \$\_\_\_\_\_ on the maturity date specified above, with interest thereon from the date hereof at the annual rate specified above (calculated on the basis of a 360-day year of twelve 30 day months), payable February 1 and August 1 in each year, commencing February 1, 2020, to the person in whose name this Bond is registered at the close of business on the fifteenth day (whether or not a business day) of the immediately preceding month. The interest hereon and, upon presentation and surrender hereof, the principal hereof are payable in lawful money of the United States of America by check or draft by Bond Trust Services Corporation, Roseville, Minnesota, as Bond Registrar, Paying Agent, Transfer Agent and Authenticating Agent, or its designated successor under the Resolution described herein. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the City have been and are hereby irrevocably pledged.

The City may elect on February 1, 2028, and on any day thereafter to prepay Bonds due on or after February 1, 2029. Redemption may be in whole or in part and if in part, at the option of the City and in such manner as the City will determine. If less than all Bonds of a maturity are called for redemption, the City will notify The Depository Trust Company (“DTC”) of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant’s interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interests in such maturity to be redeemed. Prepayments will be at a price of par plus accrued interest.

This Bond is one of an issue in the aggregate principal amount of \$8,865,000 all of like original issue date and tenor, except as to number, maturity date, redemption privilege, and interest rate, all issued pursuant to a resolution adopted by the City Council on May 14, 2019 (the “Resolution”), for the purpose of providing money to defray the expenses incurred and to be incurred in making certain street reconstruction improvements and utility system improvements, pursuant to and in full conformity with the home rule charter of the City and the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Chapters 444 and 475, as amended, including Section 475.58, subdivision 3b. The principal hereof and interest hereon are payable in part from ad valorem taxes and in part from net

revenues of the water, sewer, and storm sewer systems of the City, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred. The full faith and credit of the City are irrevocably pledged for payment of this Bond and the City Council has obligated itself to levy additional ad valorem taxes on all taxable property in the City in the event of any deficiency in taxes and net revenues pledged, which additional taxes may be levied without limitation as to rate or amount. The Bonds of this series are issued only as fully registered Bonds in denominations of \$5,000 or any integral multiple thereof of single maturities.

The City Council has designated the issue of Bonds of which this Bond forms a part as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) relating to disallowance of interest expense for financial institutions and within the \$10 million limit allowed by the Code for the calendar year of issue.

IT IS HEREBY CERTIFIED AND RECITED that in and by the Resolution, the City has covenanted and agreed that it will continue to own and operate the water system, sewer system, and storm sewer system free from competition by other like municipal utilities; that adequate insurance on said systems and suitable fidelity bonds on employees will be carried; that proper and adequate books of account will be kept showing all receipts and disbursements relating to the Water Fund, the Sewer Fund, and the Storm Sewer Fund, into which it will pay all of the gross revenues from the water system, sewer system, and storm sewer system, respectively; that it will also create and maintain a Utility Improvements Account within the General Obligation Bonds, Series 2019A Debt Service Fund, into which it will pay, out of the net revenues from the water system, sewer system, and storm sewer system, a sum sufficient to pay principal of the Utility Revenue Bonds (as defined in the Resolution) and interest on the Utility Revenue Bonds when due; and that it will provide, by ad valorem tax levies, for any deficiency in required net revenues of the water system, sewer system, and storm sewer system.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Bond Registrar, by the registered owner hereof in person or by the owner’s attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered owner or the owner’s attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Bond Registrar will be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the home rule charter of the City and the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done, do exist, have happened and have been performed as so required, and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, charter, or statutory limitation of indebtedness.

This Bond is not valid or obligatory for any purpose or entitled to any security or benefit under the Resolution until the Certificate of Authentication hereon has been executed by the Bond Registrar by manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Richfield, Hennepin County, Minnesota, by its City Council, has caused this Bond to be executed on its behalf by the facsimile or manual signatures of the Mayor and City Manager and has caused this Bond to be dated as of the date set forth below.

Dated: June 6, 2019

**CITY OF RICHFIELD, MINNESOTA**

\_\_\_\_\_  
(Facsimile)  
Mayor

\_\_\_\_\_  
(Facsimile)  
City Manager

**CERTIFICATE OF AUTHENTICATION**

This is one of the Bonds delivered pursuant to the Resolution mentioned within.

**BOND TRUST SERVICES CORPORATION**

By \_\_\_\_\_  
Authorized Representative

**ABBREVIATIONS**

The following abbreviations, when used in the inscription on the face of this Bond, will be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

UNIF GIFT MIN ACT  
\_\_\_\_\_  
Custodian \_\_\_\_\_  
(Cust) (Minor)

TEN ENT -- as tenants by entireties

under Uniform Gifts or Transfers to Minors  
Act, State of \_\_\_\_\_

JT TEN -- as joint tenants with right of  
survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration of the within Bond, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

Signature Guaranteed:

\_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by a financial institution that is a member of the Securities Transfer Agent Medallion Program ("STAMP"), the Stock Exchange Medallion Program ("SEMP"), the New York Stock Exchange, Inc. Medallion Signatures Program ("MSP") or other such "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STEMP, SEMP or MSP, all in accordance with the Securities Exchange Act of 1934, as amended.

The Registrar will not effect transfer of this Bond unless the information concerning the assignee requested below is provided.

Name and Address: \_\_\_\_\_

\_\_\_\_\_

(Include information for all joint owners if this Bond is held by joint account.)

Please insert social security or other identifying number of assignee

\_\_\_\_\_

\_\_\_\_\_

**PROVISIONS AS TO REGISTRATION**

The ownership of the principal of and interest on the within Bond has been registered on the books of the Registrar in the name of the person last noted below.

Date of Registration

Registered Owner

Signature of  
Officer of Registrar

Cede & Co.  
Federal ID #13-2555119

**EXHIBIT C**

**TAX LEVY SCHEDULE**

| <u>YEAR *</u> | <u>TAX LEVY</u> |
|---------------|-----------------|
| 2020          |                 |
| 2021          |                 |
| 2022          |                 |
| 2023          |                 |
| 2024          |                 |
| 2025          |                 |
| 2026          |                 |
| 2027          |                 |
| 2028          |                 |
| 2029          |                 |
| 2030          |                 |
| 2031          |                 |
| 2032          |                 |
| 2033          |                 |
| 2034          |                 |
| 2035          |                 |
| 2036          |                 |
| 2037          |                 |
| 2038          |                 |
| 2039          |                 |

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*\* Year tax levy collected.*

STATE OF MINNESOTA     )  
  )  
COUNTY OF HENNEPIN    ) SS.  
  )  
CITY OF RICHFIELD        )

I, being the duly qualified and acting City Clerk of the City of Richfield, Hennepin County, Minnesota (the “City”), do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of the City Council of the City held on May 14, 2019 with the original minutes on file in my office and the extract is a full, true and correct copy of the minutes insofar as they relate to the issuance and sale of the City’s General Obligation Bonds, Series 2019A, in the original aggregate principal amount of \$8,865,000.

WITNESS My hand officially as such City Clerk and the corporate seal of the City this \_\_\_\_\_ day of May, 2019.

\_\_\_\_\_  
City Clerk  
City of Richfield, Minnesota

(SEAL)



**STAFF REPORT NO. 69**  
**CITY COUNCIL MEETING**  
**5/14/2019**

REPORT PREPARED BY: Amy Markle, Recreation Services Director

DEPARTMENT DIRECTOR REVIEW: Amy Markle, Recreation Services Director  
5/7/2019

OTHER DEPARTMENT REVIEW: N/A

CITY MANAGER REVIEW: Katie Rodriguez, City Manager  
5/8/2019

**ITEM FOR COUNCIL CONSIDERATION:**

**Consider approval of a facility dedication request for a memorial garden dedicated to Gertrude Ulrich near the Richfield Band Shell.**

**EXECUTIVE SUMMARY:**

The City Council adopted a Facility Dedication Policy in 2008 to establish guidelines for dedicating recreational facilities and amenities in the city. The policy states the City does not accept requests to permanently rename recreational facilities or amenities, but as an alternative offers guidelines to dedicate such facilities to the memory of an individual or organization by granting the installation of an onsite dedication plaque.

The City received a Richfield Facility Dedication proposal from the Friends of the Band Shell for a plaque at the Band Shell Garden Area in dedication to Gertrude Ulrich. The application request was for a plaque that would read, "Gertrude Ulrich Memorial Garden." Gertrude Ulrich lived in Richfield for over 50 years, and represented its civic interests as a leader in many organizations including the Human Rights Commission, Met Council, Richfield City Council, and the League of Women Voters. She offered time, talent, and leadership to the Richfield community for decades.

The Community Services Commission reviewed the proposal and discussed the request at their April 16, 2019, meeting. Amy Markle, Recreation Services Director, explained the group's recommendation to the Commission is to dedicate the memorial garden to Gertrude Ulrich. \$10,000 was donated from Gertrude Ulrich's family for the garden. Ms. Markle went through the Friends of the Band Shell proposal including the attached article from the Star Tribune about the significance of Gertrude Ulrich's life in the Richfield community. It was further noted that the garden will not be named the Gertrude Ulrich Garden, but rather it will be dedicated to her life and legacy of civic involvement. Staff continue to work with the Friends of the Band Shell on the plaque's specific wording. The dedication recommendation is in compliance with the city policy. The Community Services Commission recommended approval of the proposal unanimously.

It is also noted that the Community Services Commission would approve the naming of the garden to Gertrude Ulrich, if the policy was amended.

**RECOMMENDED ACTION:**

**By motion: Approve a dedication of a memorial garden at the Band Shell Garden Area to Gertrude**

Ulrich.

**BASIS OF RECOMMENDATION:**

**A. HISTORICAL CONTEXT**

- The Friends of the Band Shell was formed in 2016 to raise funds and promote the project.
- Ground was broken in 2017 for the Richfield Community Band Shell.
- The band shell has been designed to hold concerts, theater productions, choral groups, dance groups and will be available for weddings, church functions, youth programs and businesses that want to gather in a beautiful park. It is expected to attract many new people to Richfield.
- The landscaping of the band shell area including the band shell garden area is part of the project master plan, and will help enhance and beautify the area for guests to enjoy.

**B. POLICIES (resolutions, ordinances, regulations, statutes, etc):**

- The City's Facility Dedication Policy was adopted by City Council in 2008 to establish guidelines for dedicating recreational facilities and amenities including athletic fields, park buildings, and other recreational structures located in the city of Richfield in honor of an individual or organization. As the policy indicates, the City does not accept requests to permanently rename a park, recreational facility or amenity in honor of an individual or organization, but as an alternative offers guidelines to dedicate such facilities to the memory of an individual or organization by granting the installation of a dedication plaque on-site of such facilities.

**C. CRITICAL TIMING ISSUES:**

- The Richfield Community Band Shell grand opening is scheduled for Thursday, June 6, the first day of the summer Entertainment in the Parks series.
- The garden area is scheduled to get planted as soon as the weather permits to be ready for the June 6 opening.

**D. FINANCIAL IMPACT:**

- There is no financial impact to the City for the proposed memorial garden dedication request.

**E. LEGAL CONSIDERATION:**

- There are no legal issues associated with the proposed memorial garden dedication request.

**ALTERNATIVE RECOMMENDATION(S):**

- City Council has the option of denying or modifying the proposed memorial garden dedication request.

**PRINCIPAL PARTIES EXPECTED AT MEETING:**

None

**ATTACHMENTS:**

|   | Description                        | Type            |
|---|------------------------------------|-----------------|
| ☐ | Gertrude Ulrich Dedication Request | Backup Material |
| ☐ | Facility Dedication Policy         | Backup Material |



# Richfield Facility Dedication PROPOSAL FORM

The installation of any plaque as a dedication to an individual or group at a City facility must be approved by the Richfield City Council. Please fill out the form below. You will be notified of their decision.

|  |                                |                                   |
|--|--------------------------------|-----------------------------------|
| NAME OF DONOR<br>(INDIVIDUAL OR REPRESENTATIVE OF GROUP) <i>RICK JABS</i>  |                                |                                   |
| NAME OF DONOR GROUP (IF APPLICABLE) <i>FRIENDS OF THE RICHFIELD BAND SHELL</i>   |                                |                                   |
| ADDRESS <i>6805 KNOX AVE S.</i>  | DAY PHONE <i>612-242-4500</i>  | EVENING PHONE <i>612-242-4500</i> |
| <i>RICHFIELD, MN 55423</i>   | E-MAIL <i>rcjabs@gmail.com</i> |                                   |
| NAME OF PERSON/ORGANIZATION/EVENT BEING HONORED <i>GERTRUDE ULRICH</i>   |                                |                                   |
| FACILITY AT WHICH DEDICATION WOULD BE LOCATED <i>VETERANS PARK</i>   |                                |                                   |
| SPECIFIC LOCATION OF PLAQUE AT FACILITY <i>BAND SHELL GARDEN AREA</i>  |                                |                                   |
| DESCRIBE THE SIGNIFICANT CONTRIBUTIONS MADE BY THE HONOREE TO THE COMMUNITY<br>(ATTACH AN EXTRA SHEET OR WRITE ON THE BACK OF THIS FORM, IF NECESSARY) |                                |                                   |
| <i>PLEASE SEE ATTACHED</i>   |                                |                                   |
| PLEASE INDICATE THE TEXT TO APPEAR ON THE PLAQUE BEING PROPOSED.<br>(ATTACH AN EXTRA SHEET OR WRITE ON THE BACK OF THIS FORM, IF NECESSARY)            |                                |                                   |
| <i>GERTRUDE ULRICH MEMORIAL GARDEN</i>   |                                |                                   |

By signing below, I understand that I, or the group I represent, will take full responsibility for the cost of purchase and installation of this plaque and any other costs associated with the dedication. I understand that this plaque will be donated to, and become property of, the City of Richfield.

I understand that the approval of this dedication may be subject to a criminal background check of the honoree and that a facility dedication may be revoked by the City at a later date should information later come to light that runs counter to the substance and spirit of the dedication policy.

*Richard C. Jabs*  
SIGNATURE

*1/30/19*  
DATE

PLEASE FORWARD THIS FORM TO JOHN EVANS AT THE RICHFIELD COMMUNITY CENTER:

| BY MAIL OR IN PERSON   | BY FAX       | BY E-MAIL              | BY PHONE     |
|--|--------------|------------------------|--------------|
| Richfield Community Center<br>7000 Nicollet Ave<br>Richfield, MN 55423 | 612-861-9388 | jevans@richfieldmn.gov | 612-861-9395 |

WEST METRO

# Obituary: Gertrude Ulrich, 87, was the 'matriarch of Richfield'

By Joe Carlson (<http://www.startribune.com/joe-carlson/271816721/>)      MAY 7, 2015 — 8:39PM

Gertrude P. Ulrich could have moved out of Richfield when her house on Aldrich Avenue and 76th Street was torn down in the name of progress in 2003.

But she had too much to stay for. Ulrich decided to stay in the city where she'd spent 50 years representing its civic interests while raising a family of six. She'd helped build the place behind the scenes, like many women during the postwar boom years while the salesmen and servicemen were away for long stretches.

"I've often said that Richfield was run by women all those years because the men were gone all the time," Ulrich told an interviewer with the Richfield Oral History Project in 2007. "All the kinds of things that we now have ... like the [Wood Lake] Nature Center, for example, and the Human Rights Commission ... they were put together by women. Although we did not have any women elected officials."

That also changed through the work of female civic leaders like Ulrich, who died April 22 at age 87 from natural causes, her family said.

"On Friday, we learned of some sad news: The passing of Gertrude Ulrich, the matriarch of Richfield civic and political activism," Councilwoman Edwina Garcia announced at the start of the Richfield City Council's meeting on April 28.

People who knew her say Ulrich never stopped building up her city, whether helping establish institutions like the Human Rights Commission, guiding nascent candidates like Garcia, or just engaging in a vibrant civic and social life with groups like the League of Women Voters of Richfield.

Despite having some difficulty getting around recently, Ulrich had signed up to volunteer at an upcoming garage sale fundraiser run by her beloved Richfield Rotary Club. But she died too soon to help out.

"The doctor had said that she could live well into her 90s, and that's what I had on my mind. So it is a shock," said one of her sons, Ted Ulrich, a theology professor at the University of St. Thomas. "She seemed like she would never die because she was so active and so involved."

Ulrich was born in the town of Heron Lake, Minn., on June 11, 1927, and met Jerome Ulrich, a Navy Air Corps veteran and future dentist, while both were attending the University of Minnesota. They married in 1952 and bought the house at 7601 S. Aldrich

Av. the following year.

The births of six kids quickly followed, but a busy family life didn't prevent her from becoming a founding member of the Human Rights Commission, serving on city planning commissions and volunteering in politics. Ulrich got her first big political appointment in 1971 when she became chairwoman of the Minnesota Cable Communications Board. She would eventually be appointed by Gov. Rudy Perpich to two terms on the Metropolitan Council and then elected to the Richfield City Council in 2000.

She lost her share of races, including runs for City Council and the Hennepin County Board in the 1960s and 1970s. But she was best known as a campaign adviser, not a politician. She was widely described as the person local DFL candidates went to see after they'd decided to run for office.

"She more or less groomed me," said Garcia, who in 1991 became the first Hispanic woman elected to the Minnesota House with Ulrich's help before joining the City Council. "She was not really a partisan person. She was a strong DLFer, but she always said, 'You don't want to get into a nasty debate with your opponent. When you run for office ... it's always good to know what the other side is saying, too.'"

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**Joe Carlson** writes about medical technology in Minnesota for the Star Tribune.

[joe.carlson@startribune.com](mailto:joe.carlson@startribune.com)    612-673-4779    [\\_JoeCarlson](#)

## **City of Richfield Recreation Facility and Amenity Dedication Policy**

**Purpose:** The purpose of this policy is to establish guidelines for dedicating recreational facilities and amenities including athletic fields, park buildings, and other recreational structures located in the City of Richfield in honor of an individual or organization. The City of Richfield does not accept requests to permanently rename a park, recreational facility or amenity in honor of an individual or organization, but as an alternative offers the following guidelines to dedicate such facilities to the memory of an individual or organization by granting the installation of a dedication plaque onsite of such facilities.

**Nomination Criteria:** Nominations for dedicating City of Richfield facilities or amenities in the memory of an individual or organization shall be based on one or more of the following criteria:

1. In honor of organizations or individuals (living or deceased) who have made a significant contribution, financial or otherwise, to the City of Richfield or who have played a leading role in advancing the City of Richfield as a good place to live, work or recreate..
2. In honor of a person, place or event that played a significant role in the history of the City of Richfield.

The individual or organization for which the dedication is sought shall be deemed to be of good general character and should not be associated with unlawful or unseemly activities.

**Dedication Guidelines:** The dedication of City recreational facilities via this policy shall be limited to significant facilities or amenities, including but not limited to buildings, rooms in buildings, athletic fields, ponds, bridges, playgrounds, and trails. The dedication of minor amenities such as water fountains and benches are not part of this policy and will be addressed by the Recreational Services Department. Fundraising projects conducted by the Friends of Wood Lake that benefit the Wood Lake Nature Center are exempt from this policy.

The dedication of City facilities or amenities shall normally be limited to no more than two per year to maintain the stature of the facility dedication honor. Any undedicated City recreational facility may be nominated for dedication using the criteria of this policy.

The nominating person(s) shall be entirely responsible for all costs associated with the dedication including application and background check fees, recognition, and memorial plaques. The size, style, text and location of the memorial plaque shall be subject to review and approval of the Recreation Services Director and the Nominating Committee.

**Application Process:** The process for dedicating a recreational facility or amenity to the memory of an individual shall be:

1. The nominating person(s) shall request a City of Richfield Recreational Facility Dedication Nomination form from the Recreation Services Department office. Nominations for deceased individuals will not be accepted until after a six-month time period from the date the individual passed away.
2. A fully completed City of Richfield Recreational Facility Dedication Nomination form shall be submitted to the Recreation Services Director and the Nominating Committee along with the specified application fee.
3. The completed application will be reviewed by Nominating Committee (consisting of assigned members of the Community Services Commission) for completeness, accuracy and adherence to policy guidelines.
4. All individuals nominated shall be subject to a criminal background check.
5. If the nomination is rejected based on the above review, the nominating person designated on the application will be notified in writing.
6. Nominations that pass the above review will be forwarded to the Community Services Commission for review at their next regularly scheduled meeting.
7. Within 60 days of the Community Services Commission meeting at which the application is received, a recommendation will be made. If rejected by the Community Services Commission, the nominating person designated on the application will be notified by City staff in writing.
8. If approved, the recommendation will be forwarded to the City Council for final review and approval or denial.
9. Nominating parties will be notified in writing of the City Council's actions within two weeks of the meeting at which action is taken.
10. The City Council shall have the authority to override this policy when they deem doing so to be in the best interest of the City.

**Revocation:**

Recreational facility dedications may be revoked by the Community Services Commission should information later come to light that runs counter to the substance and spirit of this policy.