

**LAUDERDALE CITY COUNCIL MEETING AGENDA  
TUESDAY, OCTOBER 14, 2003  
CITY HALL, 7:00 P.M.**

**FILE**

The City Council is meeting as a legislative body to conduct the business of the City according to ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

**1. CALL MEETING TO ORDER AT 7:00 P. M.**

**2. ROLL:**

*Councilmembers:*

McCloskey \_\_\_\_\_ Christensen \_\_\_\_\_  
Gill-Gerbig \_\_\_\_\_ Giannetti \_\_\_\_\_  
Mayor Dains \_\_\_\_\_

*Staff:* Getschow \_\_\_\_\_

**3. APPROVAL OF THE AGENDA**

**4. APPROVAL**

- A. Approval of minutes of 9/23/03 City Council Meeting
- B. Approval of claims totaling \$59,250.61
- C. Approval of Pay Request #6 for the 2003 Street and Utility Improvements for S.M. Hentges and Sons in the amount of \$50,556.67

**5. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE COUNCIL ON ITEMS NOT ON THE AGENDA**

Any member of the public may speak at this time on any item NOT on the agenda. In consideration of the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue shall be continued under Additional Items at the end of the agenda. Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter any discussion without permission of the presiding officer. Your participation, as prescribed by the Council's ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL, is welcomed and your cooperation is greatly appreciated.

6. **CONSENT**
7. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS/ CITIZENS ADDRESSING STREET AND UTILITY IMPROVEMENTS**
8. **INFORMATIONAL PRESENTATIONS**
9. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings, all affected residents will be given an opportunity to speak pursuant to the ROBERT'S RULES OF ORDER AND THE STANDING RULES OF ORDER AND BUSINESS OF THE CITY COUNCIL.

10. **REPORTS**
  - A. Ramsey County Court Petition regarding the Karkoc property parcel adjacent to Walsh Lake
11. **ACTION**
  - A. Consideration of Quotations for the Sale of the Lift Station Generators
  - B. Reschedule the November 11, 2003 City Council meeting as a result of Veteran's Day holiday
12. **ITEMS REMOVED FROM THE CONSENT AGENDA**
13. **ADDITIONAL ITEMS**
14. **SET AGENDA FOR NEXT MEETING**
15. **WORK SESSION DISCUSSION**
  - A. Storm Water Management Ordinance - DNR "Management of Shorelines" setback regulations
  - B. Parking Ordinance
  - C. Social Room/Kitchen Window Replacement
  - D. Liquor Control Ordinance
  - E. Housing Resource Center - Ramsey County HRA levy
16. **ADJOURNMENT**

**Lauderdale City Council  
Meeting Minutes  
September 23, 2003**

1. Meeting called to order at 7:00 P.M.
  
2. ROLL  
  
Council present: Christensen, McCloskey, Gill-Gerbig and Mayor Dains  
  
Council absent: Giannetti  
  
Staff present: Administrator Getschow
  
3. APPROVAL OF THE AGENDA  
  
*A. Approval of Agenda.* Motion by McCloskey, second by Christensen to approve the agenda. Motion carried unanimously.
  
4. APPROVAL  
  
*A. Approval of Minutes.* Motion by Gill-Gerbig, second by Christensen to approve the minutes of the September 9, 2003 City Council meeting. Motion carried unanimously.  
  
*B. Approval of Claims totaling \$45,170.76.* Motion by McCloskey, second by Gill-Gerbig to approve the claims totaling \$45,170.76. Motion carried unanimously.
  
5. OPPORTUNITY FOR THE PUBLIC TO ADDRESS ITEMS NOT ON THE AGENDA

6. CONSENT
7. SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS/  
CITIZENS ADDRESSING STREET AND UTILITY IMPROVEMENTS
8. INFORMATIONAL PRESENTATIONS
9. REPORTS
10. PUBLIC HEARINGS

*A. 2002 Street and Utility Improvements Special Assessment Roll.* The Mayor stated that the Council is considering the assessment roll for the 2002 Street and Utility Improvement project and that the Council, by simple majority, may approve the assessment roll following the public hearing.

Tom Kellogg, City Engineer, provided a summary of the construction that occurred for the 2002 Street and Utility Improvements.

The City Administrator then provided a background on all of the events that led to this assessment hearing and the details of the project financing. He then summarized relevant sections of the assessment policy that covered such issues as assessment methods, assessment rates, senior citizen deferments, and payment options.

The Mayor opened the public hearing at 7:24 p.m.

The following resident addressed the Mayor and City Council:

*Ruth Knutson, 1929 Pleasant Street,* requested further details regarding the senior citizen deferments.

The City Administrator stated that he would provide her with an application for the deferment and discuss the issue further with her following the public hearing.

The Mayor closed the public hearing at 7:26 p.m.

11. ACTION

*A. Resolution 092303A: A Resolution Approving the 2002 Street and Utility Improvements Assessment Roll.* Motion by Christensen, second by Gill-Gerbig to approve Resolution 092303A: A Resolution Approving the 2002 Street and Utility Improvements Assessment Roll. Roll: Yes: all. Motion carried.

The City Council took a break at 7:27 p.m.

The meeting resumed at 7:40 p.m.

*B. Appointment of Election Judges for the 2003 General Election.* The City Administrator presented the memorandum prepared by the Assistant to the City Administrator listing the judges scheduled to staff the 2003 general city/school board election of November 4, 2003 that needs to be approved.

Motion by McCloskey, second by Gill-Gerbig to approve the attached list of election judges for the November 4, 2003 general election. Roll: Yes: all. Motion carried.

*C. Resolution 092303B: A Resolution Relating To The Authorization Of An Investment Account With Pershing LLC.* The City Administrator introduced this housekeeping measure. He stated that at the first Council meeting of each year, the City Council approves depositories and investment institutions for the coming year. Northland Securities, one of our approved investment institutions, has recently changed transfer agents. Pershing LLC, the new transfer agent for Northland Securities, is requiring all accounts for Northland Securities to enact a corporate resolution for the purpose of transacting investments through their firm.

Motion by Christensen, second by McCloskey to approve Resolution 092303B: A Resolution Relating To The Authorization Of An Investment Account With Pershing LLC. Roll: Yes: all. Motion carried.

12. ITEMS REMOVED FROM THE CONSENT AGENDA

13. ADDITIONAL ITEMS

14. SET AGENDA FOR NEXT MEETING

1. Reschedule November 11, 2003 meeting- Veteran's Day
2. Work Session – 2003 Goals, Parking Ordinance, Alcohol Compliance Ordinance, Housing Initiatives

15. ADJOURNMENT

Motion by McCloskey, second by Gill-Gerbig to adjourn at 7:50 P.M. Ayes: All.

**CITY OF LAUDERDALE**  
**Claims for Approval**  
**October 14, 2003 City Council Meeting**

<u>Payroll</u>		
09/26/03 Payroll:	Check # 7432-7436	\$6,033.99
09/26/03 Payroll:	EFT: Federal Withholding Taxes/FICA	\$2,429.72
09/26/03 Payroll:	EFT: PERA	\$1,018.37
09/26/03 Payroll:	EFT: ICMA Retirement Fund	\$1,280.43
Sep 03 Payroll:	EFT: State Withholding Taxes	\$859.78
10/10/03 Payroll:	Check # 7438-7442	\$6,069.81
10/10/03 Payroll:	EFT: Federal Withholding Taxes/FICA	\$2,445.68
10/10/03 Payroll:	EFT: PERA	\$1,024.11
10/10/03 Payroll:	EFT: ICMA Retirement Fund	\$1,280.43
<u>Vendor Claims</u>		
10/14/03 Claims:	Check # 16564-16585	\$36,808.29

**Subtotal of Claims From Above** **\$59,250.61**

**SM Hentges & Sons: Check # 16587** **\$50,556.67**

<b>Total Claims for Approval</b>	<b>\$109,807.28</b>
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CITY OF LAUDERDALE

Paid Register

Check Number	Employee Number	Employee Name	Pay Period	Pay Group Description	Check Amount	Check Date	Status
007432	000000011	BOWNIK, JAMES	20	BI-WEEKLY	\$1,000.43	9/26/03	Outstanding
007433	000000003	GETSCHOW, RICK	20	BI-WEEKLY	\$1,874.79	9/26/03	Outstanding
007434	000000002	HINRICHS, DAVID C	20	BI-WEEKLY	\$1,067.52	9/26/03	Outstanding
007435	000000005	HUGHES, JOSEPH A	20	BI-WEEKLY	\$1,278.41	9/26/03	Outstanding
007436	000000037	WALSH, KEVIN	20	BI-WEEKLY	\$812.84	9/26/03	Outstanding
007431		VOID	20		\$0.00	9/26/03	Void
					<hr/>		
					\$6,033.99		



CITY OF LAUDERDALE

Paid Register

Check Number	Employee Number	Employee Name	Pay Period	Pay Group Description	Check Amount	Check Date	Status
007438	000000011	BOWNIK, JAMES	21	BI-WEEKLY	\$1,000.43	10/10/03	Outstanding
007439	000000003	GETSCHOW, RICK	21	BI-WEEKLY	\$1,874.79	10/10/03	Outstanding
007440	000000002	HINRICHS, DAVID C	21	BI-WEEKLY	\$1,155.98	10/10/03	Outstanding
007441	000000005	HUGHES, JOSEPH A	21	BI-WEEKLY	\$1,200.25	10/10/03	Outstanding
007442	000000037	WALSH, KEVIN	21	BI-WEEKLY	\$838.36	10/10/03	Outstanding
007437		VOID	21		\$0.00	10/10/03	Void
					<hr/>		
					\$6,069.81		

# CITY OF LAUDERDALE

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## Vendor Transactions

CHECK Nbr	Check Date	Batch Name Invoice	Amount	Comments
<b>Search Name AFSCME</b>				
016564	10/14/03	101003claims 10/14/03	\$76.24	09/03 union dues
<i>Search Name AFSCME</i>			<u>\$76.24</u>	
<b>Search Name AVENET, LLC</b>				
016565	10/14/03	101003claims 5452	\$90.00	4q03 website hosting
<i>Search Name AVENET, LLC</i>			<u>\$90.00</u>	
<b>Search Name BFI</b>				
016566	10/14/03	101003claims 10/14/03	\$2,415.00	09/03 recycling
<i>Search Name BFI</i>			<u>\$2,415.00</u>	
<b>Search Name BIFFS, INC.</b>				
016567	10/14/03	101003claims w203743	\$70.26	park biffy thru 9/30
<i>Search Name BIFFS, INC.</i>			<u>\$70.26</u>	
<b>Search Name BONESTROO, ROSENE, ANDERLIK</b>				
016568	10/14/03	101003claims 101712	\$20,579.81	08/03 2003 st/util improvements
016568	10/14/03	101003claims 101711	\$802.82	08/03 2002 st/util improvements
<i>Search Name BONESTROO, ROSENE, ANDERLIK</i>			<u>\$21,382.63</u>	
<b>Search Name CHEN-KUO KU OR CHING-HWAI WANG</b>				
016569	10/14/03	101003claims 10/14/03	\$11.00	nonresident reimbursement rv, fh rec
<i>Search Name CHEN-KUO KU OR CHING-HWAI WANG</i>			<u>\$11.00</u>	
<b>Search Name CINTAS</b>				
016570	10/14/03	101003claims 10/14/03	\$111.69	9/22, 9/29, 10/9 pw uniforms
<i>Search Name CINTAS</i>			<u>\$111.69</u>	
<b>Search Name CITY OF ROSEVILLE</b>				
016571	10/14/03	101003claims 4200	\$164.08	10/03 technical services
<i>Search Name CITY OF ROSEVILLE</i>			<u>\$164.08</u>	
<b>Search Name CONSTRUCTION BULLETIN</b>				
016572	10/14/03	101003claims 2420848	\$78.00	ad to sell lift station generators
<i>Search Name CONSTRUCTION BULLETIN</i>			<u>\$78.00</u>	
<b>Search Name GLENWOOD INGLEWOOD</b>				
016573	10/14/03	101003claims 10/14/03	\$53.68	9/30 water delivery
<i>Search Name GLENWOOD INGLEWOOD</i>			<u>\$53.68</u>	
<b>Search Name HOME DEPOT CRC</b>				
016574	10/14/03	101003claims 6030526	\$82.89	supplies for lights
<i>Search Name HOME DEPOT CRC</i>			<u>\$82.89</u>	
<b>Search Name HUGHES &amp; COSTELLO</b>				
016575	10/14/03	101003claims 10/14/03	\$38.33	10/03 print/process fees
016575	10/14/03	101003claims 10/14/03	\$850.00	10/03 legal retainer
<i>Search Name HUGHES &amp; COSTELLO</i>			<u>\$888.33</u>	
<b>Search Name KENNEDY &amp; GRAVEN</b>				
016576	10/14/03	101003claims 58148	\$112.50	08/03 legal fees
<i>Search Name KENNEDY &amp; GRAVEN</i>			<u>\$112.50</u>	
<b>Search Name LMC</b>				

# CITY OF LAUDERDALE

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## Vendor Transactions

CHECK Nbr	Check Date	Batch Name Invoice	Amount	Comments
016577	10/14/03	101003claims 10/14/03	\$1,783.00	member dues thru 8/31/04
<i>Search Name LMC</i>			<u>\$1,783.00</u>	
<b>Search Name MAMA</b>				
016578	10/14/03	101003claims 695	\$18.00	09/03 managers meeting
<i>Search Name MAMA</i>			<u>\$18.00</u>	
<b>Search Name NORTH STAR BANK, PETTY</b>				
016579	10/14/03	101003claims 10/14/03	\$11.18	coffee
016579	10/14/03	101003claims 10/14/03	\$45.36	rick mileage
016579	10/14/03	101003claims 10/14/03	\$28.08	kevin mileage
016579	10/14/03	101003claims 10/14/03	\$25.00	pcic pizza
<i>Search Name NORTH STAR BANK, PETTY</i>			<u>\$109.62</u>	
<b>Search Name OFFICE MAX</b>				
016580	10/14/03	101003claims 4944j251	\$52.12	general office supplies
<i>Search Name OFFICE MAX</i>			<u>\$52.12</u>	
<b>Search Name PARK SERVICE</b>				
016581	10/14/03	101003claims 10/14/03	\$69.53	09/03 truck fuel
016581	10/14/03	101003claims 10/14/03	\$69.54	09/03 truck fuel
016581	10/14/03	101003claims 10/14/03	\$53.28	truck repairs
016581	10/14/03	101003claims 10/14/03	\$53.28	truck repairs
<i>Search Name PARK SERVICE</i>			<u>\$245.63</u>	
<b>Search Name RAPIT PRINTING</b>				
016582	10/14/03	101003claims 103644	\$38.39	mechanical permit applications
016582	10/14/03	101003claims 103543	\$38.39	plumbing permit applications
<i>Search Name RAPIT PRINTING</i>			<u>\$76.78</u>	
<b>Search Name RAY ANDERSON &amp; SONS</b>				
016583	10/14/03	101003claims 10159801	\$8,300.00	house demolition 1728 malvern st
<i>Search Name RAY ANDERSON &amp; SONS</i>			<u>\$8,300.00</u>	
<b>Search Name SPRINT PCS</b>				
016584	10/14/03	101003claims 10/14/03	\$11.25	09/03 pw cell phone
016584	10/14/03	101003claims 10/14/03	\$11.25	09/03 pw cell phone
<i>Search Name SPRINT PCS</i>			<u>\$22.50</u>	
<b>Search Name XCEL ENERGY</b>				
016585	10/14/03	101003claims 10/14/03	\$6.23	09/03 garage gas/electric
016585	10/14/03	101003claims 10/14/03	\$21.86	09/03 city hall gas/electric
016585	10/14/03	101003claims 10/14/03	\$7.29	09/03 city hall gas/electric
016585	10/14/03	101003claims 10/14/03	\$114.80	09/03 city hall gas/electric
016585	10/14/03	101003claims 10/14/03	\$38.27	09/03 city hall gas/electric
016585	10/14/03	101003claims 10/14/03	\$9.39	09/03 garage gas/electric
016585	10/14/03	101003claims 10/14/03	\$6.23	09/03 garage gas/electric
016585	10/14/03	101003claims 10/14/03	\$20.61	09/03 park gas/electric
016585	10/14/03	101003claims 10/14/03	\$7.40	09/03 park gas/electric
016585	10/14/03	101003claims 10/14/03	\$422.88	09/03 street lighting

CITY OF LAUDERDALE  
Vendor Transactions

CHECK Nbr	Check Date	Batch Name Invoice	Amount	Comments
016585	10/14/03	101003claims 10/14/03	\$9.38	09/03 garage gas/electric
Search Name XCEL ENERGY			<u>\$664.34</u>	
<b>Grand Total</b>			<b>\$36,808.29</b>	

CITY OF LAUDERDALE

Vendor Transactions

CHECK Nbr	Check Date	Batch Name Invoice	Amount	Comments
<b>Search Name SM HENTGES &amp; SONS</b>				
016587	10/14/03	101403claims pay req #6	\$50,556.67	2003 st/util improvements
<b>Search Name SM HENTGES &amp; SONS</b>			<u>\$50,556.67</u>	
<b>Grand Total</b>			<u>\$50,556.67</u>	



Owner: City of Lauderdale, 1891 Walnut St., Lauderdale, MN 55113	Date: October 7, 2003
For Period: 9/5/2003 to 10/7/2003	Request No: 6
Contractor: S. M. Hentges and Sons Inc., 650 Quaker Ave. Ste. 200, Jordan, MN 55352	

**CONTRACTOR'S REQUEST FOR PAYMENT**  
**2003 UTILITY AND STREET IMPROVEMENTS**  
 BRA FILE NO. 532-02-103

**SUMMARY**

1	Original Contract Amount		\$	<u>1,696,724.39</u>
2	Change Order - Addition	\$	<u>0.00</u>	
3	Change Order - Deduction	\$	<u>0.00</u>	
4	Revised Contract Amount		\$	<u>1,696,724.39</u>
5	Value Completed to Date		\$	<u>1,481,394.23</u>
6	Material on Hand		\$	<u>0.00</u>
7	Amount Earned		\$	<u>1,481,394.23</u>
8	Less Retainage 5%		\$	<u>74,069.71</u>
9	Subtotal		\$	<u>1,407,324.52</u>
10	Less Amount Paid Previously		\$	<u>1,356,767.85</u>
11	Liquidated damages -		\$	<u>0.00</u>
12	AMOUNT DUE THIS REQUEST FOR PAYMENT NO. <u>6</u>		\$	<u><u>50,556.67</u></u>

Recommended for Approval by:  
**BONESTROO, ROSENE, ANDERLIK & ASSOCIATES, INC.**

Tom Kellogg  
 Approved by Contractor:  
**S M HENTGES AND SONS INC**

Approved by Owner:  
**CITY OF LAUDERDALE**

Specified Contract Completion Date:  
October 31, 2003

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

No.	Item	Unit	Contract Quantity	Unit Price	Current Quantity	Quantity to Date	Amount to Date
<b>PART 1 - STREETS:</b>							
1	MOBILIZATION	LS	1	69081.09		0.9	\$62,172.98
2	TRAFFIC CONTROL	LS	1	7000.00		0.9	\$6,300.00
3	SILT FENCE, REGULAR	LF	400	1.50		53	\$79.50
4	WOOD FIBER BLANKET	SY	400	3.10			\$0.00
5	HAY BALES	EA	10	8.00			\$0.00
6	SEEDING	AC	0.3	3780.00			\$0.00
7	RECLAIM BITUMINOUS PAVEMENT	SY	22000	0.75		21370	\$16,027.50
8	REMOVE BITUMINOUS PAVEMENT	SY	1900	3.50		1068	\$3,738.00
9	REMOVE CONCRETE SIDEWALK	SF	3450	0.40		1875	\$750.00
10	REMOVE CONCRETE CURB AND GUTTER	LF	30	3.00		154	\$462.00
11	REMOVE CONCRETE PAVEMENT	SF	5400	0.50		5867	\$2,933.50
12	REMOVE FENCE	LF	550	2.00		679	\$1,358.00
13	REMOVE CONCRETE STEP	EA	60	50.00		25	\$1,250.00
14	CLEAR AND GRUB	TREE	22	200.00	10	20	\$4,000.00
15	ADJUST MANHOLE CASTING	EA	2	200.00			\$0.00
16	ADJUST VALVE BOX	EA	2	125.00			\$0.00
17	COMMON EXCAVATION (P)	CY	20875	8.19		20875	\$170,966.25
18	EXCAVATION - TRAIL	LF	130	12.00			\$0.00
19	SELECT GRANULAR BORROW (CV)	CY	8500	11.65	78	8311	\$96,823.15
20	SUBGRADE EXCAVATION (EV)	CY	1000	7.25		46	\$333.50
21	GEOTEXTILE FABRIC, TYPE IV	SY	26500	1.00	117	24805	\$24,805.00
22	4" PERFORATED POLYETHYLENE PIPE	LF	1600	3.75		1680	\$6,300.00
23	CONNECT DRAIN TILE TO STRUCTURE	EA	32	50.00		34	\$1,700.00
24	AGGREGATE BASE, CLASS 5 (CV)	CY	6400	18.00	20	5563	\$100,134.00
25	AGGREGATE BASE, CLASS 5 - TRAIL (CV)	CY	45	21.25			\$0.00
26	BITUMINOUS MATERIAL FOR TACK COAT	GAL	1250	1.50	175	400	\$600.00
27	BITUMINOUS BASE COURSE TYPE 31	TN	2800	32.50		2579	\$83,817.50
28	BITUMINOUS WEAR COURSE TYPE 41	TN	2100	35.50			\$0.00
29	BITUMINOUS WEAR COURSE TYPE 41A - TRAIL	TN	20	62.00			\$0.00
30	BITUMINOUS PATCHING	SY	740	44.75			\$0.00
31	BITUMINOUS DRIVEWAY PATCHING	SY	770	21.50	93.3	593.3	\$12,755.95
32	B618 CONCRETE CURB AND GUTTER	LF	13125	7.60		12329	\$93,700.40
33	CONCRETE STREET PATCHING	SF	150	11.80		150	\$1,770.00
34	7" CONCRETE DRIVEWAY PAVEMENT	SF	9400	5.20	324	15982	\$83,106.40
35	CONCRETE STEP	EA	60	170.00		79	\$13,430.00
36	4" CONCRETE SIDEWALK	SF	3450	3.25		3844	\$12,493.00
37	PEDESTRIAN CURB RAMP	EA	3	200.00		4	\$800.00
38	SODDING, LAWN TYPE	SY	15000	1.80	17642	17642	\$31,755.60
39	STREET NAME SIGN (2 BLADES), INCL POST AND HARDWARE	EA	8	230.00			\$0.00
40	DITCHING	LF	360	10.00			\$0.00
	Total PART 1 - STREETS:						\$834,362.23
	PART 1 - STREETS: - Bid Amount Total - \$967,850.09						
<b>PART 2 - ALLEY IMPROVEMENTS:</b>							
41	REMOVE BITUMINOUS PAVEMENT	SY	40	5.00	8	71	\$355.00
42	REMOVE CONCRETE PAVEMENT	SF	30	0.75		464	\$348.00
43	CLEAR AND GRUB	LS	1	1000.00	0.1	1	\$1,000.00
44	COMMON EXCAVATION (EV)	CY	1500	10.00		1690	\$16,900.00
45	MOTOR GRADER WITH OPERATOR	HR	50	100.00		7	\$700.00
46	FRONT END LOADER WITH OPERATOR	HR	20	105.00		3	\$315.00
47	SKIDSTEER (BOBCAT) WITH OPERATOR	HR	85	82.00	40	57	\$4,674.00
48	AGGREGATE BASE, CLASS 5	TN	1500	10.50		2028	\$21,294.00
49	BITUMINOUS MATERIAL FOR TACK COAT	GAL	280	1.50		330	\$495.00
50	BITUMINOUS BASE COURSE TYPE 31	TN	700	36.00		848	\$30,528.00
51	BITUMINOUS WEAR COURSE TYPE 41	TN	530	38.50	268	877	\$33,764.50
	Total PART 2 - ALLEY IMPROVEMENTS:						\$110,373.50
	PART 2 - ALLEY IMPROVEMENTS: - Bid Amount Total - \$92,067.50						
<b>PART 3 - STORM SEWER:</b>							
52	REMOVE MANHOLE	EA	13	150.00		13	\$1,950.00
53	REMOVE CATCH BASIN	EA	6	150.00		8	\$1,200.00
54	REMOVE REINFORCED CONCRETE PIPE (RCF)	LF	1100	7.00		1416	\$9,912.00

No.	Item	Unit	Contract Quantity	Unit Price	Current Quantity	Quantity to Date	Amount to Date
55	REMOVE CORRUGATED METAL PIPE (CMP) AND HDPE PIPE	LF	2200	6.00		711	\$4,266.00
56	BULKHEAD EXISTING STORM SEWER	EA	2	75.00		5	\$375.00
57	SALVAGE AND REINSTALL CONCRETE PIPE	LF	14	22.00			\$0.00
58	CLEAR AND GRUB	LS	1	1100.00		1	\$1,100.00
59	IMPROVED PIPE FOUNDATION, PER 6" INCREMENT	LF	1000	0.01			\$0.00
60	RESTRICTED TRENCH	LF	282	10.00			\$0.00
61	12" RCP STORM SEWER, CLASS 5	LF	1200	23.00		1309	\$30,107.00
62	15" RCP STORM SEWER, CLASS 5	LF	560	24.00		451	\$10,824.00
63	18" RCP STORM SEWER, CLASS 5	LF	1430	26.00		1420	\$36,920.00
64	21" RCP STORM SEWER, CLASS 5	LF	535	30.00		530	\$15,900.00
65	30" RCP STORM SEWER, CLASS 4	LF	300	47.80		294	\$14,053.20
66	12" RCP FLARED END SECTION, INCL TRASH GUARD	EA	1	752.00		1	\$752.00
67	18" RCP FLARED END SECTION, INCL TRASH GUARD	EA	1	1025.00		1	\$1,025.00
68	CLASS III RANDOM RIPRAP	CY	12	75.00		12	\$900.00
69	2' X 3' CATCH BASIN	EA	9	1112.00		9	\$10,008.00
70	SHALLOW CATCH BASIN	EA	3	1024.00		4	\$4,096.00
71	6' DIA STORM SEWER CBMH, INC 2' SUMP, R- 4342 CSTG	EA	1	3825.00		1	\$3,825.00
72	5' DIA STORM SEWER MH, INCL R-1642-B CSTG AND CONC ADJ RINGS	EA	1	2769.00		1	\$2,769.00
73	5' DIA STORM SEWER CBMH, INC R-3067-V, CSTG AND CONC ADJ RINGS	EA	1	2629.00		1	\$2,629.00
74	4' DIA STORM SEWER MH, INC 2' SUMP, R- 1642-B CSTG	EA	1	1928.00		1	\$1,928.00
75	4' DIA STORM SEWER MH, INCL R-1642-B CSTG	EA	3	1788.00		3	\$5,364.00
76	4' DIA STORM SEWER CBMH, INC R-3067-V, CSTG AND CONC ADJ RINGS	EA	27	1788.00		28	\$50,064.00
77	4' DIAMETER STRUCTURE OVERDEPTH	LF	2	79.00		2.7	\$213.30
78	CONSTRUCT MH OVER EXISTING PIPE	EA	2	750.00		2	\$1,500.00
79	CONNECT TO EXISTING STORM SEWER SERVICE	EA	3	500.00		1	\$500.00
80	CONNECT TO EXISTING CBMH	EA	1	600.00			\$0.00
	Total PART 3 - STORM SEWER:						\$212,180.50
	PART 3 - STORM SEWER: - Bid Amount Total - \$221,054.00						

**PART 4 - SANITARY SEWER:**

81	BYPASS PUMPING	LS	1	3500.00		1	\$3,500.00
82	REMOVE MANHOLE	EA	13	150.00		13	\$1,950.00
83	REMOVE LIFT STATION	LS	1	5000.00		1	\$5,000.00
84	REMOVE SANITARY SEWER PIPE	LF	3510	0.01		3510	\$35.10
85	REMOVE FORCEMAIN PIPE	LF	2880	6.00		1692	\$10,152.00
86	REMOVE SANITARY SEWER SERVICE PIPE	LF	4050	1.00		2353	\$2,353.00
87	BULKHEAD EXISTING SANITARY SEWER	EA	1	75.00			\$0.00
88	ABANDON MANHOLE	EA	1	175.00			\$0.00
89	CLEAR AND GRUB	LS	1	1100.00			\$0.00
90	IMPROVED PIPE FOUNDATION, PER 6" INCREMENT	LF	1500	0.01		20	\$0.20
91	4' DIAMETER SANITARY MANHOLES (10' DEEF	EA	12	1859.00		10	\$18,590.00
92	4' DIAMETER SANITARY MANHOLE OVERDEPTH	LF	17.8	78.00		28.5	\$2,223.00
93	8" PVC SANITARY SEWER, SDR 35, 0'-10' DEEP	LF	437	20.50		437	\$8,958.50
94	8" PVC SANITARY SEWER, SDR 35, 10'-12' DEEP	LF	849	22.50		849	\$19,102.50
95	8" PVC SANITARY SEWER, SDR 35, 12'-14' DEEP	LF	1192	24.50		1192	\$29,204.00
96	8" PVC SANITARY SEWER, SDR 35, 14'-16' DEEP	LF	585	26.50		585	\$15,502.50
97	8" PVC SANITARY SEWER, SDR 35, 16'-18' DEEP	LF	420	32.50		420	\$13,650.00



No.	Item	Unit	Contract Quantity	Unit Price	Current Quantity	Quantity to Date	Amount to Date
98	8" PVC SANITARY SEWER, SDR 35, 18'-20' DEEP	LF	235	42.50		235	\$9,987.50
99	CORE DRILL CONNECTION TO EXISTING MANHOLE	EA	2	900.00		2	\$1,800.00
100	CONNECT TO EXISTING SANITARY SEWER 8" VCP PIPE	EA	3	430.00		4	\$1,720.00
101	CONSTRUCT MANHOLE OVER EXISTING PIPE	EA	3	2169.00		2	\$4,338.00
102	8" DIP OUTSIDE DROP INLET PIPE	LF	8.9	378.00		7.9	\$2,986.20
103	8" DIP SANITARY SEWER	LF	40	24.00		119	\$2,856.00
104	CLOSED CIRCUIT TV INSPECTION	LF	3758	0.70			\$0.00
105	8" X 4" PVC WYE, SDR 26	EA	123	39.00		106	\$4,134.00
106	8" X 6" PVC WYE, SDR 26	EA	4	51.00		4	\$204.00
107	8" X 8" PVC WYE, SDR 26	EA	1	105.00		1	\$105.00
108	RECONSTRUCT INVERT	EA	2	300.00		2	\$600.00
109	4" PVC, SDR 26 SERVICE PIPE	LF	4000	12.00		2291	\$27,492.00
110	6" PVC, SDR 26 SERVICE PIPE	LF	70	13.00		82	\$1,066.00
111	4" PVC, SDR 26 RISER PIPE	LF	150	12.00		353	\$4,236.00
112	6" PVC, SDR 26 RISER PIPE	LF	10	13.00		5	\$65.00
113	CONNECT TO EXISTING SEWER SERVICE	EA	125	155.00		99	\$15,345.00
114	INSULATION, 3" THICK	SY	7	13.50		4	\$54.00
	Total PART 4 - SANITARY SEWER:						\$207,209.50
	PART 4 - SANITARY SEWER: - Bid Amount Total - \$245,848.80						
	<b>PART 5 - WATER MAIN:</b>						
115	REMOVE HYDRANT	EA	7	275.00		8	\$2,200.00
116	REMOVE GATE VALVE AND BOX	EA	7	100.00		8	\$800.00
117	REMOVE WATER MAIN	LF	6000	5.00		3455	\$17,275.00
118	WATER MAIN TRENCH	LF	5575	8.00		5130	\$41,040.00
119	WATER SERVICE TRENCH	LF	4450	10.00		1403	\$14,030.00
120	MECHANICAL TRENCH COMPACTION	LF	10025	1.00		6533	\$6,533.00
121	PIPE BEDDING	LF	5575	2.00		6533	\$13,066.00
122	IMPROVED PIPE FOUNDATION, PER 6" INCREMENT	LF	2500	0.01			\$0.00
123	BACK HOE WITH OPERATOR	HR	10	150.00			\$0.00
124	INSULATION, 3" THICK	SY	7	4.50		7	\$31.50
	Total PART 5 - WATER MAIN:						\$94,975.50
	PART 5 - WATER MAIN: - Bid Amount Total - \$144,456.50						
	<b>PART 6 - WARMING HOUSE DRIVE AND PARKING AREA:</b>						
125	MOBILIZATION	LS	1	500.00		1	\$500.00
126	SEEDING	AC	0.1	5100.00			\$0.00
127	COMMON EXCAVATION (EV)	CY	25	15.00			\$0.00
128	15" RCP CULVERT, CLASS 5	LF	40	26.00			\$0.00
129	15" RCP FLARED END SECTION, INCL TRASH GUARD	EA	2	621.00			\$0.00
130	AGGREGATE BASE, CLASS 5	TN	80	11.00			\$0.00
131	BITUMINOUS MATERIAL FOR TACK COAT	GAL	20	1.50		20	\$30.00
132	BITUMINOUS BASE COURSE TYPE 31	TN	45	36.00		73.5	\$2,646.00
133	BITUMINOUS WEAR COURSE TYPE 41	TN	33	38.50	10	65	\$2,502.50
	Total PART 6 - WARMING HOUSE DRIVE AND PARKING AREA:						\$5,678.50
	PART 6 - WARMING HOUSE DRIVE AND PARKING AREA: - Bid Amount Total - \$7,467.50						
	<b>ALTERNATE NO. 1 - NATURE AREA DRAINAGE IMPROVEMENTS:</b>						
134	MOBILIZATION	LS	1	2000.00		1	\$2,000.00
135	CLEAR AND GRUB	TREE	15	200.00		9	\$1,800.00
136	WOOD FIBER BLANKET	SY	400	3.10		355	\$1,100.50
137	REMOVE STORM SEWER PIPE	LF	60	10.00		68	\$680.00
138	REMOVE CONCRETE SLAB AND HEADWALL	LS	1	700.00			\$0.00
139	REMOVE AND REPLACE FENCE	LF	50	7.00		90	\$630.00
140	COMMON EXCAVATION	LS	1	1000.00		1	\$1,000.00
141	COMMON BORROW (LV)	CY	30	3.00			\$0.00
142	TOPSOIL BORROW (LV)	CY	16	15.00			\$0.00
143	IMPROVED PIPE FOUNDATION, PER 6" INCREMENT	LF	71	4.00			\$0.00
144	RESTRICTED TRENCH	LF	71	15.00		71	\$1,065.00
145	CONNECT TO EXISTING STORM MANHOLE	EA	1	750.00		1	\$750.00

No.	Item	Unit	Contract Quantity	Unit Price	Current Quantity	Quantity to Date	Amount to Date
146	18" HDPE STORM SEWER	LF	53	33.00		69	\$2,277.00
147	18" RCP STORM SEWER, CLASS 5	LF	8	40.00		18	\$720.00
148	18" RCP FLARED END SECTION, INCL TRASH GUARD	EA	1	1064.00		1	\$1,064.00
149	CLASS III GROUTED RIPRAP	CY	18	90.00		18	\$1,620.00
150	4' DIA STORM SEWER MH. INCL R-1642-B CSTG AND CONC ADJ RINGS	EA	1	1908.00		1	\$1,908.00
Total ALTERNATE NO. 1 - NATURE AREA DRAINAGE IMPROVEMENTS:							\$16,614.50
ALTERNATE NO. 1 - NATURE AREA DRAINAGE IMPROVEMENTS: - Bid Amount Total - \$17,980.00							

Total PART 1 - STREETS:	\$834,362.23
Total PART 2 - ALLEY IMPROVEMENTS:	\$110,373.50
Total PART 3 - STORM SEWER:	\$212,180.50
Total PART 4 - SANITARY SEWER:	\$207,209.50
Total PART 5 - WATER MAIN:	\$94,975.50
Total PART 6 - WARMING HOUSE DRIVE AND PARKING AREA:	\$5,678.50
Total ALTERNATE NO. 1 - NATURE AREA DRAINAGE IMPROVEMENTS:	\$16,614.50
Total Work Completed To Date	\$1,481,394.23

**PROJECT PAYMENT STATUS**

OWNER CITY OF LAUDERDALE

BRA FILE NO. 532-02-103

CONTRACTOR S M HENTGES AND SONS INC

**CHANGE ORDERS**

No.	Date	Description	Amount
<b>Total Change Orders</b>			

**PAYMENT SUMMARY**

No.	From	To	Payment	Retainage	Completed
1	04/01/2003	05/02/03	73,546.48	3,870.87	77,417.35
2	05/03/2003	06/04/03	228,495.02	15,896.92	317,938.42
3	06/05/2003	06/30/03	418,279.15	37,911.61	758,232.26
4	07/01/2003	08/04/03	403,763.50	59,162.32	1,183,246.47
5	08/05/2003	09/04/03	232,683.70	71,408.83	1,428,176.68
6	09/05/2003	10/07/03	50,556.67	74,069.71	1,481,394.23

**Material on Hand**

Total Payment to Date		\$1,407,324.52	Original Contract	\$1,696,724.39
Retainage Pay No. 6		74,069.71	Change Orders	
Total Amount Earned		\$1,481,394.23	Revised Contract	\$1,696,724.39

# Lauderdale City Council Memorandum

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Council Meeting Date: October 14, 2003  
To: Mayor and City Council  
From: Rick Getschow, City Administrator  
Agenda Item: Petition regarding the Karkoc Property adjacent to Walsh Lake

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## **BACKGROUND:**

This parcel has been the focus of much discussion over the past thirty years as the Karkoc's have attempted to develop the lot as a residential parcel. The following is a brief timeline:

### **Pre-1989**

The Karkoc parcel, and what is now 1951 Pleasant- immediately to the south, was once a single parcel. The owner created two separate parcels and sold off one of the parcels. Apparently, the prior 1951 Pleasant Street owner was planning on providing the new parcel owner (his brother) an easement for access purposes. It was never recorded.

### **1989**

A rear yard setback variance was approved for single-family home construction by the City Council in 1989, but there were at least 25 conditions on which the approval was based. (*See Enclosure #1*)

Note: Representatives of the Karkoc's have now stated that they would attempt to construct a home without needing a variance, and thus, would not need to adhere to the 1989 variance.

### **1997**

The City adopts, and the Metropolitan Council approves, the City of Lauderdale Comprehensive Plan.

The Comprehensive Plan delineates the Karkoc parcel, along with three city-owned parcels to the north, as undeveloped. The Plan also delineates those four parcels as Plan Area #2- Open Space. The intent is to develop the three city-owned parcels and potentially the Karkoc parcel as park and/or open space along Walsh Lake. (*See Enclosure #2*)

Also in 1997, the City adopts a storm water management ordinance. In the wetland section of the ordinance, it is stated that redevelopment along the south end of Walsh Lake (DNR water body 214W) shall be done following MN DNR standards for "Management of Shorelines". The DNR shoreline setback regulation for residential development is currently 50 feet from the ordinary high water level (OHWL).

## **2002**

During the 2002 Street and Utility Improvements north of Roselawn Avenue, Pleasant Street was reconstructed and this parcel was not considered to be served by the street and the parcel was not assessed. (*See Enclosure #3*)

## **Present – 2003**

The Rice Creek Watershed District did act upon an application for a site drainage plan from the Karkoc's on July 23, 2003. They gave their conditional approval of the site plan and a variance from the 50-foot setback of the OWHL with two conditions and one important note:

1. That there be field verification by District Staff of no wetland impacts;
2. That there must be written authorization from the southern landowner (1951 Pleasant) for a proposed driveway; and
3. A variance for the 50-foot setback from the OWHL may also be required from the City of Lauderdale

(*See Enclosure #4*).

Overall, some of the issues with building on this lot over these years have been:

1. Concerns with the fact that at least 25% of the lot is in Walsh Lake;
2. The lot is not served by the former or current configuration of Pleasant Street;
3. Even though the lot may be served by a small portion of Pleasant Street right-of-way (separate from the actual road itself since the actual road is partially on private property), a driveway could not be constructed fully within the right-of-way;
4. The property owner to the south (1951 Pleasant) would need to provide an easement or similar instrument on his private property for that parcel to have adequate driveway access;
5. The City has adopted DNR shoreline setback regulations that require residential development to be setback 50 feet from the ordinary high water level. In terms of this parcel, that setback could not be met with any type of construction without the need for a significant variance.

Late last week, The City and four Pleasant Street property owners were served with a court petition from the Karkoc's regarding Pleasant Street right-of-way or access. They are possibly attempting to prove that there is an established street serving their property. The City Attorney is still conducted research on this issue, but it appears that the Karkoc's are attempting to persuade the Title Examiner to recognize that Pleasant Street serves his and the other four properties based on survey work that they have done. It is clear to the City that Pleasant Street does serve the other properties, but as was noted before, it does not appear that Pleasant Street ever touched the Karkoc parcel.  
*(See Enclosure #5).*

A hearing before the Title Examiner is scheduled for Wednesday, November 15, 2003 – the day after the Council meeting. The City Attorney will either be present at this meeting or will provide further input that can be presented to the Council so that direction can be given as to how the City should respond at the hearing.

The three affected property owners (1951 Pleasant, 1943 Pleasant and 1937 Pleasant) have stated they will be attending the Council meeting. They have stated that they oppose this action that has been taken by Karkoc.

Since this issue continues to evolve and much of what is referred to in the petition has not been provided to the City or adjacent property owners, there will probably be new developments by the time of the meeting.

I will be taking a vacation day on Monday as we are going out of town for a long weekend, but I will be checking messages and possibly still talking to the City Attorney regarding this issue. I will be back in the office on Tuesday morning.

## **ENCLOSURES:**

1. 1979 City Council Variance information
2. Lauderdale Comprehensive Plan Information
3. Street and Utility Improvements Map of the Affected Area
4. Rice Creek Watershed Permit Application Information
5. Copy of the Petition filed by Peter and Lucy Karkoc

## **COUNCIL ACTION REQUESTED:**

Possible direction on how to proceed on this matter as it relates to a hearing before the Title Examiner scheduled for Wednesday, November 15, 2003.

Member Lee Peterson introduced the following resolution and moved its adoption:

CITY OF LAUDERDALE  
RESOLUTION NO. 101089A

WHEREAS, Mr. Peter Karkoc, property owner of Lot 4 and the north half of Lot 5, Block 3 Garcelons Addition was present along with his Attorney Mr. Neil Dieterich, to review their request and answer Council questions.

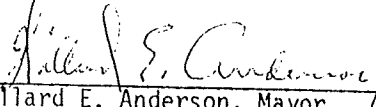
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lauderdale, Minnesota to approve a rear yard setback variance from the minimum 20 feet to 2 feet from the lot line, and a variance from the 30% maximum lot coverage to approximately 45% lot coverage exclusive of drainage easement to construct a house and garage on Lot 4 and North half of Lot 5, Block 3 Garcelons Addition, as per plan submitted and dated 10-10-89, to Mr. Peter Karkoc, with the following conditions:

1. Complies with list of conditions from August 8, 1989 Council Meeting.
2. Granting of a forty foot maximum road easement for Pleasant Street over Lot 6 and the north half of Lot 5, Block 3 Garcelons Addition.
3. Upper floor height resolved as per plan dated 10-10-89.
4. Secure approval and permit from Rice Creek Watershed District.
5. Culvert installed under driveway per City Engineer.


MOTION AMENDED to include this:

6. Six inch City Water Main to be extended in Pleasant Street according to City Engineer recommendation and with approval by the St. Paul Water Department. Extension cost paid by Mr. Peter Karkoc and the hydrant, if needed, will be paid by the City of Lauderdale.
7. Approval by the City Fire Marshall (Terry Iverson).
8. Approval of final plan by City Engineer (John Harwood).
9. Approval in writing of west neighbor must be submitted to the City of Lauderdale.
10. Attorney Neil Dieterich to work closely with City Clerk to make sure all conditions are followed before a building permit can be issued by the City of Lauderdale.

DATED THIS 10th day of October, 1989.

  
Willard E. Anderson, Mayor

ATTEST:

  
La Vanche O. Peterson, City Clerk

The foregoing motion was duly seconded by member Paul Villella; and upon a vote being taken thereon, the following voted in favor thereof:

Mayor Willard E. Anderson, Councilmembers Nora Gille, Lee Peterson  
Paul Villella and Cynthia Wheeler

and the following voted against the same: NONE

Whereupon said resolution was declared duly passed and adopted.

AUGUST 8, 1989

PETER KARKOC CONDITIONS TO BE CONSIDERED FOR BUILDING ON LOT 4 AND THE NORTH 1/2 OF LOT 5, BLOCK 3, GARCELON'S ADDITION TO ST. PAUL.

The Council of the City of Lauderdale (approves, does not approve) variances to Ordinance No. 24 to permit the construction of the house by Peter Karkoc, owner, on Lot 4 and the north 1/2 of Lot 5, Block 3, Garcelon's Addition to St. Paul, as reviewed by the Planning and Zoning Commission (P & Z) and the City Council with the following conditions:

1. The rear set back with respect to the overhang shall be no less than 2 feet.
2. The height shall be verified on the building plans that it conforms to the zoning ordinance.
3. The finished grading plan shall be on the site plan.
4. The revised house plan shall show the actual conditions intended to build and shall indicate the area of the building (maximum projection onto lot) and the buildable area (the area excluding the 100 year high water level drainage easement) of the lot and the percentage of coverage.
5. Permission of the neighbors to the south and west shall be obtained.
6. A copy of the letter from the Rice Creek Watershed granting their approval to build shall be submitted. (City reviewed 8/8/89)
7. An indication of the Pleasant Street easement for the driveway access to the lot shall be shown on the site plan.
8. The applicant shall grant an easement to the City of Lauderdale to reflect the existing street as determined by the city engineer.
9. The revised site plan shall show all dimensions; dimensions shall be indicated with all appropriate set backs; basement and each floor's elevation shall be shown shown. Structural and site plans shall have accurate dimensions in agreement with one another.
10. Plans shall be reviewed and approved by the chairperson of the P & Z (Wayne Sisel) before going to the building inspector.
11. Proof shall be submitted that a 7'6" basement meets the building code.
12. The grading plan shall be approved by the city engineer to be sure drainage is adequate.
13. The applicant shall provide suitable watermain and hydrant, if necessary, as approved by the city engineer, fire marshal, and the St. Paul Water Department.
14. The sewer system in the alley west of the property must be reconstructed by the City prior to the start of construction including excavation of basement or footings.
15. The applicant shall grant the City of Lauderdale a temporary construction easement to reconstruct the pertinent sewer line.
16. No construction shall commence until the City of Lauderdale can verify it has the funds to reconstruct the pertinent sewer line.

- See NOTES  
Page two.



PAGE TWO

NOTE: AUGUST 8, 1989  
PETER KARKOC - CONDITIONS

NOTE:

1. Lot coverage allowed is 30%.  
Need approximately 45% lot coverage.
2. Can't find indication of the Pleasant Street easement for the driveway access to the lot with the county or the city; applicant will obtain one.
3. A councilperson expressed the concern that the proposed structure is too large for the site.
4. Not approved; returned to the P and Z for re-evaluation including a specific evaluation of lot coverage.
5. Mayor Anderson recommends a performance bond be posted by applicant prior to issuance of a permit.

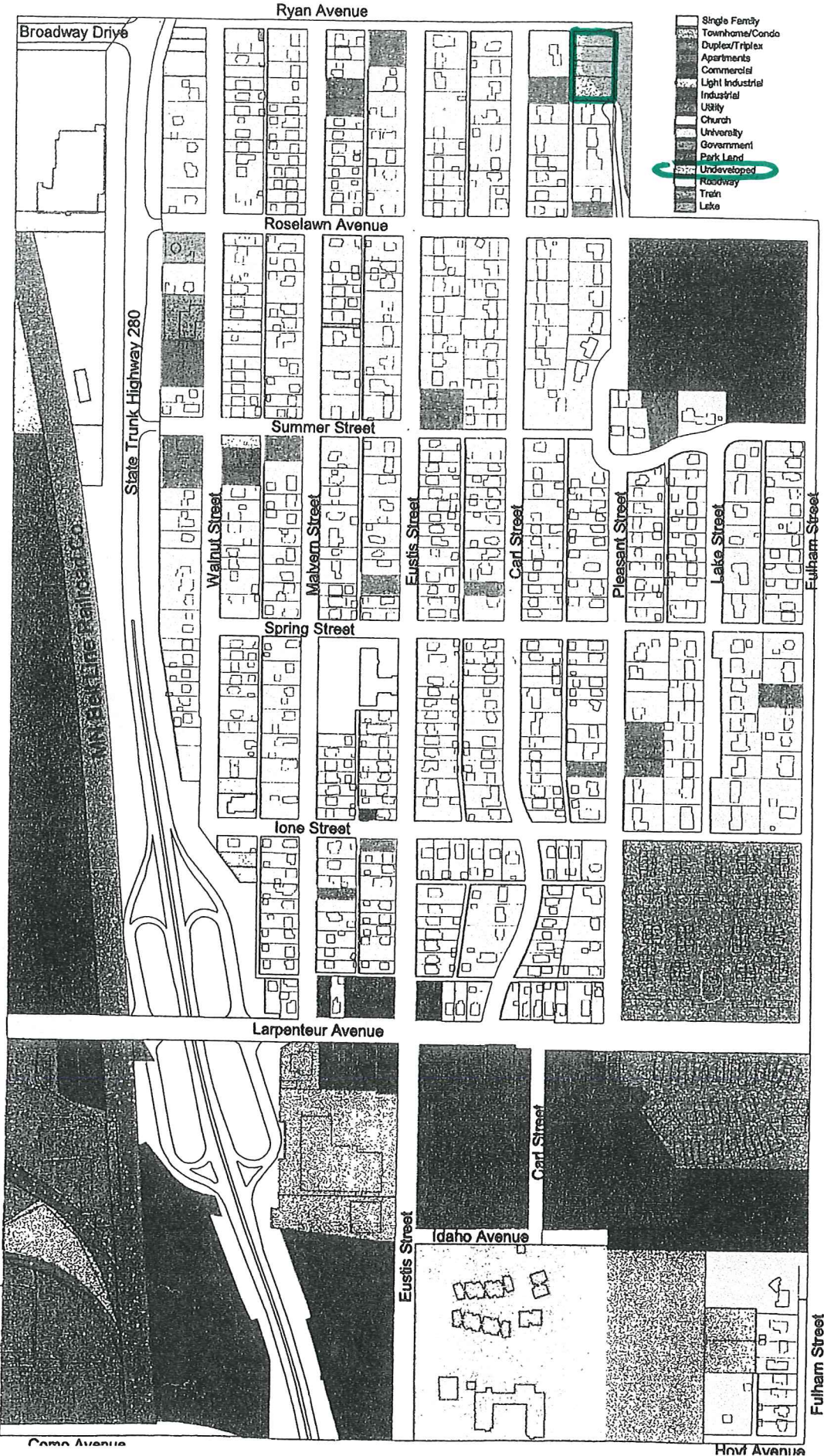
This was Item 7.1 Agenda item 8/8/89  
7:25 p.m.

# The City of Lauderdale

## Existing Land Use

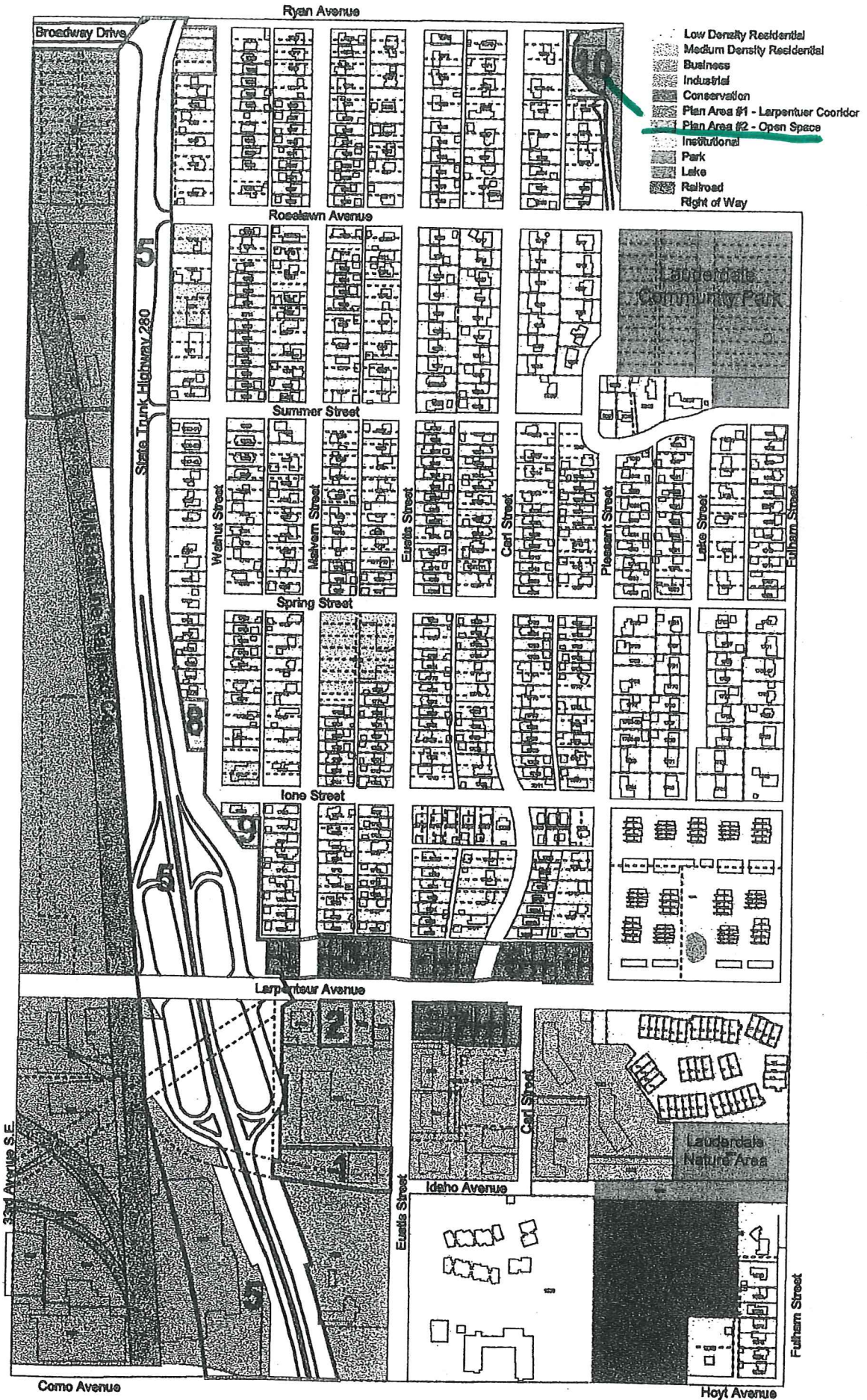
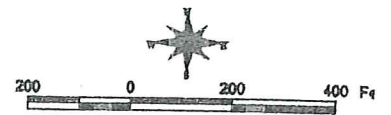


200 0 200 400 Feet



# The City of Lauderdale

## Comprehensive Plan--Staging Map



### C. Breck Woods

1. **Discuss the future usability of Breck Woods for Lauderdale residents.**
  - Initiate discussion with Luther Seminary to maintain the existing status of the area known as “Breck Woods” as a wilderness conservation area.

### D. General

1. **Increase residents’ awareness of recreation opportunities within Lauderdale.**
  - Include articles in the City newsletter about the Nature Area and park facilities.
2. **Increase recreational opportunities by creating walkways and paths.**
  - Formulate alternatives for recreational walkways such as a walkway around the City.
  - Create bike lanes in high traffic areas.
3. **Link walkways and paths in Lauderdale to surrounding cities.**
  - Link sidewalks on the south side of Larpenteur to Falcon Heights.

### E. Open Space

1. **Preserve existing open space in Conservation (C-1) Areas.**
  - Initiate discussion with Luther Seminary to maintain the existing status of the area known as “Breck Woods” as a wilderness conservation area. Alternatively, the city might consider setting aside money to purchase this land.
2. **Acquire property for open space and parks when strong public benefit exists.**
  - Study the potential for public benefit of creating mini-parks at the corner of Ione and Walnut, at the north end of Walnut and on the west shore of Walsh Lake. (Plan Area 2)
3. **Maintain existing City-owned open space.**

## **GOAL II. PROVIDE EFFICIENT PUBLIC SERVICES TO LAUDERDALE RESIDENTS.**

1. **Maintain current City provided services until such services can be provided at a lower cost and higher benefit by another government or private company/organization.**
2. **Compare costs and benefits of the City’s contracted services.**
3. **Plan for the upkeep and expansion of public facilities/services to provide efficient service to the public.**
4. **Provide public services where public need and benefit is determined.**

## THIS IS NOT A PERMIT

At their meeting held July 23, 2003, the Board of Managers of the Rice Creek Watershed District took action on your Permit Application as shown on the attached document. The following definitions may be helpful to acquaint you with our procedure and effect timely permit issuance:

**CAPROC (Conditional Approval Pending Receipt Of Changes)** = The District has nearly all exhibits required for adequate review and issuance of a permit; you have 90 days to submit the required non-administrative item(s) and six months to submit the required administrative items. After this time, the application reverts to a denial and a new application will need to be submitted. Please submit additional exhibits with your application number affixed *in duplicate and one copy in an electronic .pdf format*. **Failure to identify your exhibits by Permit Application number could mean a delay in issuing your permit.**

**Cash surety:** If your project requires a cash surety, the surety will be kept through final inspection to assure erosion control measures remain current as shown in plan and also for compliance with other permit requirements. Up to the first \$5,000 must be cash – a check from the applicant is acceptable. Amounts over \$5,000 are accepted in the form of an irrevocable letter of credit or an insurance company bond. The format for the letter of credit and the bond can be found on the RCWD web site at [www.ricecreekwd.com](http://www.ricecreekwd.com).

After receipt and review of additional exhibits, more information may be required for clarification to ensure that District's requirements have been met. If you have any questions, please call Karl Hammers, Rice Creek Watershed District Permit Coordinator, at 763-398-3072.

[khammers@ricecreekwd.com](mailto:khammers@ricecreekwd.com).

C: City of Lauderdale  
Applicant's Consultant: Roger Nelson, R. Nelson Engineering  
Correspondence  
RCWD File # 02-081

KH

Permit Application No. 02-081

Peter &amp; Lucy Karkoc

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**Rice Creek Watershed District Permit Application Number****02-081**

<b>Applicant:</b>	Peter & Lucy Karkoc 2335 Argonne Drive Columbia Heights, MN 55421 Ph: 763-572-9414 Fx: none	<b>Consultant:</b>	Roger Nelson R. Nelson Engineering 1460 93 <sup>rd</sup> Lane NE Blaine, MN 55434 Ph: 763-784-7390 Fx: 763-784-7390
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**Purpose:** Final Site Drainage Plan for a single family home riparian to Walsh Lake, 0.23± acres.

**Location:** North of Roselawn Avenue and west of Pleasant Street, Lauderdale.

**T-R-S:** 29-23-17 bd

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**Recommendation:** **Conditional approval pending receipt of changes and outstanding items related to:**

Wetlands

1. Field verification by District staff of no wetland impacts.

Administrative

2. Written authorization from southern landowner for proposed driveway.

**Exhibits:**

1. Permit Application dated July 3, 2002, received July 3, 2002.
2. Development and Erosion Control Plan prepared by R. Nelson Engineering, last revised July 2, 2003, received July 3, 2002.
3. Floodplain and Compensatory Storage Plan prepared by R. Nelson Engineering, undated, received July 3, 2002.
4. RCWD Permit files 88-69, 81-119, 79-02.
5. Cash surety in the amount of \$250, received from Applicant on July 16, 2002.

**Findings:**

1. Proposed project entails construction of a single-family home riparian to Walsh Lake. This site was previously reviewed under RCWD permits 88-69, 81-119, and 79-02. History of alleged illegal

Permit Application No. 02-081

Peter &amp; Lucy Karkoc

fill on the site and no access to the site have prevented the project from being realized. No documentation exists to verify whether historic fill placement occurred within the floodplain. Also no documentation has been provided as to authorization for driveway access across property to the south of the site.

2. Walsh Lake is DNR protected wetland 214W. Although Walsh Lake is indicated to be a wetland on the DNR Protected Waters Inventory Map, it is actually categorized as a General Development Lake. As result, a setback of 50 from the OHW is required and any deviation from this setback requires a variance from District Rule H (since the City of Lauderdale has not technically adopted a DNR approved shoreland ordinance). The applicant has received written confirmation that the project does not require a DNR permit.

The applicant's consultant submitted a variance request (see attached letter dated July 3, 2003). The current proposed setback for the structure is 15±feet from the OHW. Since Walsh lake currently receives stormwater runoff from developed areas with limited to no water quality treatment, any water quality effects as a result of this project will be negligible.

The RCWD Board of Managers considered and approved this variance request from the 50 setback from the OHW of Walsh Lake at the July 23, 2003 regular board meeting. The applicant should note that a variance from the City of Lauderdale may also be required for this setback as well as other side/rear lot setbacks.

3. The proposed plan indicates that there is no fill or excavation below the OHW (926.5) of Walsh Lake. Field verification by District staff of no wetland fill above the OHW is required.
4. The regulatory flood elevation of Walsh Lake is 931.2. The proposed lowest floor elevation of 933.2 satisfies District freeboard requirements. The proposed plan indicates 400 cubic feet of floodplain fill and 475 feet of compensatory storage, thereby satisfying the District's 1:1 compensatory storage requirements.
5. An acceptable erosion control plan including silt fence downstream of disturbed areas and a revegetation implementation schedule has been submitted.
6. This permit was tabled in July of 2002 for setback, offsite grading, and wetland issues.

Board Action:

Emmons & Olivier Resources, Inc.

7/24/03

STATE OF MINNESOTA  
COUNTY OF RAMSEY

DISTRICT COURT  
SECOND JUDICIAL DISTRICT

In the Matter of the Petition of  
Peter Karkoc and Lucy Karkoc,

FILED  
Court Administrator

FILE NO. P.S. C9-03-6877

SEP 29 2003

By AKR Deputy ORDER TO SHOW CAUSE

In Relation to Certificate of Title No. **230028** issued for land in the County of Ramsey and State of Minnesota legally described as:

Lot 4 and the North ½ of Lot 5, Block 3, Gracelon's Addition to St. Paul. There are no memorials on said certificate of title affecting this proceeding.

In Relation to Certificate of Title No. **364425** issued for land in the County of Ramsey and State of Minnesota legally described as:

The South ½ Lot 5 and Lot 6, Block 3, Gracelon's Addition to St. Paul. There are no memorials on said certificate of title affecting this proceeding.

In Relation to Certificate of Title No. **292514** issued for land in the County of Ramsey and State of Minnesota legally described as:

Lot 7 and the North ½ of Lot 8, Block 3, Gracelon's Addition to St. Paul. There are no memorials on said certificate of title affecting this proceeding.

In Relation to Certificate of Title No. **518218** issued for land in the County of Ramsey and State of Minnesota legally described as:

The South ½ Lot 8 and Lot 9, Block 3, Gracelon's Addition to St. Paul. There are no memorials on said certificate of title affecting this proceeding.



TO ALL PARTIES WITH AN INTEREST IN THIS REAL ESTATE, PARTICULARLY:

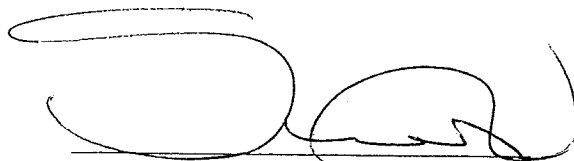
Peter Karkoc and Lucy Karkoc  
Daniel C. Gumnit and Linda J. Kuusisto  
Hugh R. Currie and Sharon A. Currie  
John Mulhern and Rebecca Schatz  
City of Lauderdale

**IT IS HEREBY ORDERED** that unless you appear before this Court on the 15<sup>th</sup> day of October, 2003, at 2:00 P.M. in Room 330 (Rock Room) of the Ramsey County Government Center West, 50 W. Kellogg Blvd., St. Paul, Minnesota, to make a valid objection, the Court will enter the following Order:

The Registrar of Titles of Ramsey County is directed to show by recital on Certificates of Title 230028, 364425, 292514, and 518218 and any successor certificates the following phrase: "Subject to a public street dedicated by use and legally described as shown in the Order filed as Document \_\_\_\_\_."

**IT IS FURTHER ORDERED** that this Order be served: (a) at least 7 days prior to such hearing upon all of the above named parties residing in this State in the manner provided by law for the service of a Summons in a Civil action; (b) at least 10 days prior to such hearing upon any of the above named parties not residing in this State by sending a copy of this Order by registered or certified mail, return receipt, to each of such parties at his/her post office address; (c) upon any of the above named parties who cannot be found by two weeks published notice and at least 10 days prior to the hearing by sending a copy of this Order by First Class mail to each of such parties at his/her last known address and at his/her address as stated on the Certificate of Title if his/her address is so stated.

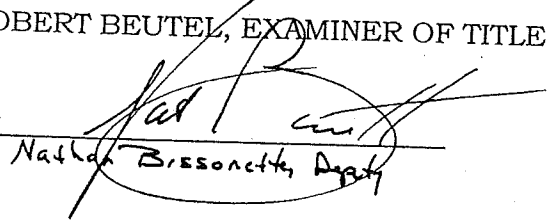
DATED: 9-29, 03

  
JUDGE OF DISTRICT COURT

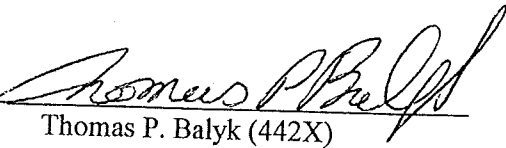
Entry of this Order to Show Cause is recommended.

ROBERT BEUTEL, EXAMINER OF TITLES

By

  
Nathan Bresonette, Deputy

ATTORNEY FOR PETITIONER:

  
Thomas P. Balyk (442X)

ADDRESS OF ATTORNEY:

1327 County Road D  
St. Paul, Minnesota 55109

TELEPHONE NO.:

(651) 255-0088

**CITY OF LAUDERDALE**

**MEMORANDUM**

TO: Mayor and Council Members  
FROM: Kevin Walsh, Deputy Clerk  
SUBJECT: Accepting a bid for the generator  
DATE: October 14, 2003

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**BACKGROUND**

The City of Lauderdale, due to the removal of the lift stations, has had two generators and pumps for sale in various trade magazines and the League of MN Cities Bulletin.

The City of Ashby has agreed to pay \$6,100 for one of the generators. A second bid the City received was from Braun Pump who wanted "all or nothing"—the two generators and pumps for a total of \$6000. A third bid was submitted by Thomas Utsch for the two generators at \$2500 (6 cylinder) and \$2200 (4 cylinder) .

The proposal from the City of Ashby, Braun Pump, and Thomas Utsch are included in the packet.

The \$2200 bid amount for the second generator seems a bit low. City staff could instead, re-advertise in the League Bulletin free of charge and hope for a higher bid.

**COUNCIL ACTION REQUESTED**

Consider accepting the highest bid from the City of Ashby in the amount of \$6100.00.  
Consider rejecting the bids from Braun Pump and Thomas Utsch.



**City of Ashby**

203 Main Street  
PO Box 320  
Ashby, MN 56309

Phone: (218) 747-2876  
Fax: (218) 747-2886  
email: ashbycit@prtcl.com

September 22, 2003

City of Lauderdale  
1891 Walnut Street  
Lauderdale, MN 55113

Attn: Public Works Director David Hinrichs

The City of Ashby, MN wishes to submit a bid for the 1999 35 kw generator model # N35FJG4 in the amount of \$6,100 provided that this unit comes with the automatic power transfer switch gear and panel.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Teicher".

Paul Teicher  
Public Works Superintendent

# BRAUN PUMP & CONTROLS, INC.

## Facsimile TRANSMITTAL

**To:** Dave Hinrichs  
**With:** City of Lauderdale  
**Fax #:** 651-631-2066  
**Re:** Bids for Used Equipment  
**Date:** 8/19/03  
**Pages:** 1, including cover page

### COMMENTS:

We offer the following purchase prices for the equipment you wish to sell.

- |  |            |
|--|------------|
| (1) Kato-Lite Generator Model N35F JG4 | \$2,500.00 |
| (1) Kato-Lite Generator Model N25F JG4 | \$2,500.00 |
| (4) Flygt Pumps two 10.5HP & two SHP   | \$1,000.00 |
| (2) Control Panels                     |            |

All of the items are subject to inspection before final purchase.

Regards,



Dave Braun

From the desk of...  
 DAVE BRAUN  
 BRAUN PUMP & CONTROLS, INC.  
 1574 3<sup>RD</sup> AVE SW, SUITE 2  
 NEW PRAGUE MN 56071  
 952-758-6600  
 FAX 952-758-7778  
 braunpmp@bevcomm.net

I am submitting a bid to the city of Rounddale for the 25 KW, 6 cylinders generator for the amount of \$2,500.00.

Thomas Utzel  
27682 E. Hwy 55  
Paynesville, MN.  
56362  
(320) 243-3747

I am submitting a bid to the city of Rounddale for the 25 KW 4 cylinders generator a bid of \$2,200.00.

Thomas Utzel  
27682 E. Hwy 55  
Paynesville, MN.  
56362  
(320) 243-3747

# Lauderdale City Council Memorandum

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Council Meeting Date: October 14, 2003  
To: Mayor and City Council  
From: Rick Getschow, City Administrator  
Agenda Item: Move November 11<sup>th</sup> Council meeting to November 12<sup>th</sup>

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## **BACKGROUND:**

The regular Council meeting scheduled for the second Tuesday of the month in November (November 11, 2003) falls on Veteran's Day. Since the city cannot conduct business or hold a meeting on that date, action is needed to move the date of this meeting.

A preferred date to move the meeting to is the next day- Wednesday, November 12<sup>th</sup>. Since Wednesday is the last legal date that the Council can certify the results of the November 4<sup>th</sup> election, a date past Wednesday, November 12<sup>th</sup> should not be chosen. Following action by the Council to move the meeting, a notice will be placed in the official paper indicating the date change.

There is already a presentation tentatively scheduled for a Wednesday meeting by our City Prosecutor, so it is important that you let me know as soon as possible if this proposed date does not work for you.

## **COUNCIL ACTION REQUESTED:**

Motion to approve the City Council regular meeting date change from November 11, 2003 to November 12, 2003.

# Lauderdale City Council Memorandum

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Council Meeting Date: October 14, 2003  
To: Mayor and City Council  
From: Rick Getschow, City Administrator  
Agenda Item: Work Session Discussion Items:  
A. DNR "Management of Shorelines" setback regulations  
B. *Parking Ordinance*  
C. *Social Room/Kitchen Window Replacement*

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## BACKGROUND:

The following are the items for discussion at the work session that follows the regular meeting:

**A. DNR "Management of Shorelines" setback regulations.** Another issue that has arisen with this Karkoc property is a shoreline setback that exists through the city's adoption of the DNR standards for shoreline management. The City adopted a Storm water Management Ordinance in 1997. In the wetland section, of that ordinance, the following language exists:

*Redevelopment along the south end of Walsh Lake (DNR waterbody 214W) shall be done following MN DNR standards for "Management of Shorelines".*

In the DNR shoreline document, the setback for residential development from a DNR water body is 50 feet from the ordinary high water level (OHWL). Representatives of the Karkoc property have stated that since the City does not possess its own shoreline setback in its zoning ordinance, simply adopting the DNR standard may not be sufficient. They felt that the watershed district, not the City, should enforce this DNR setback.

At the meeting, we will need discuss the following questions related to this issue:

1. Is it the Council's intent to regulate the DNR shoreline setback of 50 feet?
2. Is the enforcement of the DNR setback legally defensible through the storm water management ordinance? or
3. Should this setback be a city-adopted setback that is placed in the zoning ordinance?

The City Attorney will either be present at the meeting or will provide further input that can be presented to the Council on this issue.



**B. Parking Ordinance.** The intent is to discuss the parking ordinance as it relates to the street parking of large recreational vehicles. The current parking ordinance states that a “house trailer, mobile home, vacation trailer, vacation bus, boat trailer, or similar recreation vehicle more than 20 feet in length” may be parked on the city street for more than 3 consecutive days or 30 calendar days in a year.

The Police Department has had an issue this summer whereby boats of 16-18 feet in length are basically allowed to be parked on the street at all times, while boats of 20 feet or more are not. We have not been able to gauge the logic of why 20 feet was enacted as a benchmark. The Police Department and some residents have stated that the 20-foot length regulation should possibly be eliminated and the ordinance should regulate parking for all recreational vehicles in the same manner. Either all boats can be parked on the street indefinitely or no boats can be parked on the street indefinitely and must abide by the 3 day/30 day rule.

I have included the entire parking ordinance in this packet for your review and have highlighted the affected area.

**C. Social Room/Kitchen Window Replacement.** I would like to discuss the potential replacement of the windows in the social room and the kitchen. This is a follow-up to the work session budget discussions that occurred on this issue.

## CHAPTER 1

**PARKING RESTRICTIONS<sup>1</sup>**

## SECTION:

- 6-1-1: Purpose
- 6-1-2: Definitions
- 6-1-3: Powers Of City Council
- 6-1-4: General Parking Restrictions
- 6-1-5: Special Parking Allowances
- 6-1-6: Seasonal Parking Restrictions
- 6-1-7: Penalty

## 6-1-1: PURPOSE:

A. To help establish the most efficient, equitable and safe use of the City's roadways, highways, and parking.

B. To enable the City Council to achieve the above. (Ord. 16, 4-27-1993)

## 6-1-2: DEFINITIONS:

Any term used in this Chapter and defined in Minnesota Statutes section 169.01 has the meaning given to it by that section. The following words shall have the meanings ascribed to them in this Section:

**BOULEVARD:** The property owned by the City which is between the edge of the roadway and the homeowner's property line.

**DRIVEWAY:** A private roadway providing access for vehicles to a parking space in the side or rear yard of the property, garage, dwelling or other structure in the side or rear of the property. (Ord. 16, 4-27-1993)

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1. M.S.A. § 412.211, subd. 6.

## 6-1-3: POWERS OF CITY COUNCIL:

The City Council may designate, by resolution, no parking or limited parking zones within the City for the purpose of facilitating snow removal or street maintenance, aiding emergency vehicle access or the unimpeded flow of traffic, or promoting any other public purpose. The City Council shall cause signs to be posted at the zones which indicate the applicable limitations on parking. The City Council may include the entire City within a zone, may limit application of the zone regulations to specific times of the year or climatic conditions, and shall provide for placing appropriate signs generally throughout a zone. (Ord. 48, 11-24-1986)

In addition, the City Council may, by resolution, designate certain streets or portions of streets as no parking or as zones for parking by physically handicapped persons and may limit the hours and dates in which the restrictions apply. The City shall mark by appropriate signs each zone so designated. No vehicle shall be parked in a no parking zone during hours when parking is prohibited except as permitted by State law. (Ord. 16, 4-27-1993; 1996 Code)

## 6-1-4: GENERAL PARKING RESTRICTIONS:

A. Obstruct Pickup And Delivery Of Mail: No person shall park a vehicle upon any street or highway so as to obstruct the pickup and delivery of mail by postal employees.

B. Prohibited Parking: No person shall park a vehicle upon any street or highway at times when, and in locations where, such parking is prohibited.

C. Time Limitations For Trucks: No truck with a capacity of over two (2) tons shall be parked on any street for more than ninety (90) minutes, or for the time necessary to load or unload such truck.

D. Three Day/Thirty Day Maximum: No vehicles hereinafter described may be parked upon any public street within the City for three (3) consecutive days or a total of more than thirty (30) days during any calendar year.

1. House Trailer, Mobile Home, Or Recreational Vehicles: House trailer, mobile home, vacation trailer, vacation bus, boat trailer, or similar recreational vehicle more than twenty feet (20') in length.

2. Construction Equipment And Machinery: Construction equipment or machinery except when such construction equipment or machinery is necessarily located at such place to make road or utility repairs.

E. Permitted Exterior Parking:

1. Front Yards: Exterior parking in front yards shall be limited to the driveway, thereon only currently licensed and operable vehicles twenty feet (20') or under, with a passenger capacity of nine (9) or less, and trucks not exceeding three-quarter ( $3/4$ ) ton, may be parked.

2. Side And Back Yards: Exterior parking for vehicles over twenty feet (20') may only occur in the side and back yards and only if currently licensed and operable.

F. Parking On Boulevards: No vehicle shall be parked on any boulevard adjacent to a public street.

6-1-5: SPECIAL PARKING ALLOWANCES:

A. Handicapped Parking: No person shall park, obstruct or occupy with a motor vehicle any parking space, on public or private property, designed and posted as parking space for handicapped persons pursuant to the State Building Code, or Rules and Regulations of the State Fire Marshall, or pursuant to Minnesota Statutes section 169.346 unless such vehicle has prominently displayed upon it an insignia or certificate issued by the Division of Vehicles in the State Department of Public Safety pursuant to Minnesota Statutes section 169.345 subdivision (3).

B. Fire Lanes:

1. Authority To Establish: The Fire Chief or his designate is hereby authorized to order the establishment of fire lanes on public or private property as may be necessary in order that the travel of fire equipment may not be interfered with, and that access to fire hydrants or buildings may not be obstructed.

2. Erection Of Signs: When a fire lane has been established, it shall be marked with a sign or signs bearing the words "No Parking - Fire Lane" or similar message.

a. Public Property: When the fire lane is on public property or public right of way, the sign or signs shall be erected by the City.

b. Private Property: When on private property, the signs shall be erected by the owner at his own expense within thirty (30) days after he has been notified of the order. Failure to erect the sign or signs within such period is a misdemeanor. (Ord. 16, 4-27-1993)

3. Obstruction Prohibited: After a sign or signs have been erected in accordance with subsection B2 of this Section, no person shall park a vehicle or otherwise obstruct the fire lane.

4. Fire Hydrant Or Fire Appliance: No person shall keep posts, fences, growth, or other material nor park any vehicle near any fire hydrant or fire appliance that would prevent such hydrant or appliance from being immediately discernible or in any other manner deter or hinder the Fire Department from being able to gain immediate access to a fire hydrant or fire appliance. (Ord. 68, 3-15-1978)

6-1-6: SEASONAL PARKING RESTRICTIONS:

A. Odd/Even Winter Parking: Parking on City streets north of Larpenteur Avenue, with the exception of Fulham Street, shall be subject to the following alternate side regulations from December 1 through March 15 of the following year.

1. Even-Numbered Years: Motor vehicles may be parked only on the even side of the street during any winter parking season in which the start of the winter parking season falls on an even number year (east side of north-south streets, south side of east-west streets).

2. Odd-Numbered Years: Motor vehicles may be parked only on the odd side of the street during any winter parking season in which the start of the winter parking season falls on an odd number year (west side of north-south streets, north side of east-west streets).

3. Beginning Of Season: Each winter parking season shall be deemed to begin at nine o'clock (9:00) A.M. on December 1. (Ord. 16, 4-27-1993)

4. Parking Amnesty Zone:

a. Created: The City hereby creates a parking amnesty zone along both sides of Walnut from Ione to the end of the Peace Lutheran Church property as it currently exists and along both sides of Ione west of Malvern.

b. Hours Of Amnesty: Cars parked within the parking amnesty zone shall not be ticketed due to odd/even parking restrictions on Sunday morning between nine o'clock (9:00) A.M. and one o'clock (1:00) P.M. (Ord. 16, 4-27-1993; amd. 1-9-1996)

5. Handicapped Parking Exempted: The City hereby exempts from odd/even winter parking restrictions any vehicle parked at a handicapped parking space; provided, that the vehicle displays the proper handicapped insignia. (Ord. 16, 4-27-1993; amd. 1-9-1996)

B. Restrictions After Two-Inch Snowfall: No person shall park any vehicle on any street for a period of forty eight (48) hours, commencing immediately after two inches (2") or more of continuous snowfall, or until snow removal has been completed on that street, whichever occurs first. (Ord. 16, 4-27-1993)

6-1-7: PENALTY:

A. Fine: Any person convicted of violating any provision of this Chapter, not otherwise stated, is guilty of a petty misdemeanor and shall be subject to penalty as provided in Section 1-4-1 of this Code.

B. Impoundment: If a vehicle is parked or left standing on a street in violation of any resolution adopted by the City Council pursuant to this Chapter or any part of this Chapter not otherwise specified, the vehicle may be removed and impounded by or at the direction of the City and the expense thereof may be charged by the City against the owner of the vehicle. The cost of removing and storing the vehicle, in addition to any fine imposed for violation of this Chapter, shall be paid before the vehicle is restored to the owner. (Ord. 16, 4-27-1993; 1996 Code)

C. Additional Remedies: Removal of a vehicle by or under the direction of the City pursuant to this Chapter shall not prevent prosecution of the owner thereof for violation of this or any other ordinance.

D. Violation; Penalty: Any person violating any provision of this Chapter shall be guilty of a misdemeanor. Each day a violation continues shall constitute a separate offense. (Ord. 48, 11-24-1986)

**CITY OF LAUDERDALE**

**MEMORANDUM**

TO: Mayor and Council Members

FROM: Kevin Walsh, Deputy Clerk

SUBJECT: Alcoholic beverages

DATE: October 14, 2003

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**BACKGROUND**

As you know, The Saint Anthony Police Department conducts alcohol compliance checks on licensed Lauderdale businesses on a regular basis pursuant to State Statutes. The Super USA recently failed their compliance check. Chapter two of the City Code reads that, "it shall be unlawful to sell such non-intoxicating malt liquor to any person under twenty one (21) years of age.

The Code also states that, "the conviction of the licensee...or employee...shall be sufficient cause for the City Council to revoke any license issued to such licensee."

It seems that the language in the current ordinance is a bit arbitrary. Since Lauderdale does not have such a civil penalty provision in our liquor control ordinance, it may be worthwhile to look at some options. At this point, the Council has the option to revoke a license after one (1) violation or twenty (20) violations. It might be more reasonable to set a "schedule" of violation penalties. For example, the City of Falcon Heights will fine the license holder \$500 for the first offense of selling alcoholic beverages to an under-age person.

Included are examples of penalties for violations from the cities of Falcon Heights, St. Anthony, and Little Canada. Also, the League of MN Cities liquor revocation and suspension policy and the current Lauderdale policy are included.

## CHAPTER 2

## LIQUOR CONTROL

## SECTION:

- 3-2--1: Definitions
- 3-2--2: License Required
- 3-2--3: Application
- 3-2--4: License Fee
- 3-2--5: Limited On Sale License
- 3-2--6: Investigation
- 3-2--7: Term Of License
- 3-2--8: Hours Of Sale Restricted
- 3-2--9: Prohibited Acts
- 3-2-10: Music, Hours Restricted
- 3-2-11: Licensee Liability
- 3-2-12: Taverns Prohibited
- 3-2-13: Sale And Delivery In Original Package
- 3-2-14: Revocation Of License
- 3-2-15: Violation !2R!

## 3-2-1: DEFINITIONS:

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

!DEF! INTOXICATING LIQUOR: Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than three and two-tenths percent (3.2%) of alcohol by weight.

NONINTOXICATING MALT LIQUOR: Malt liquor containing not less than one-half of one percent (0.5%) alcohol by volume nor more than three and two-tenths percent (3.2%) alcohol by weight.

TAVERN: Every place used, maintained, advertised or held out to be a place where nonintoxicating liquor is sold for consumption on or off such premises and in addition to such sale of nonintoxicating liquor also provides dancing, singing or vaudeville performance or entertainment for its guests or provides for them the privilege of dancing. (Ord. 6, 7-25-1989; 1996 Code) !DEFEND!

## 3-2-2: LICENSE REQUIRED:

A. General Requirement: It shall be unlawful to sell nonintoxicating malt liquors at retail, except when licensed as hereinafter provided.

B. Types Of Licenses: There shall be two (2) types of licenses issued for the sale of nonintoxicating liquors as hereinafter set out:

1. On Sale Licenses: On sale licenses shall permit the licensee



to sell nonintoxicating malt liquor for consumption on the premises.

2. Off Sale Licenses: Off sale licenses shall permit the licensee to sell nonintoxicating malt liquor in original packages for consumption off the premises only. (Ord. 6, 7-25-1989)

3-2-3: APPLICATION:

Any person desiring either of the licenses hereinbefore described shall first make an application therefor to the City Council by filing with the City Administrator, for presentation by him to the Council, an application in writing which shall set forth with reasonable accuracy the name and place of residence of the applicant, the exact location of the place at which the applicant proposes to carry on the business of selling nonintoxicating malt liquor, and whether or not the applicant has, at any time previous to the date thereof, been engaged in such business and, if so, when and where. Such application shall be signed by the applicant or by an officer of the corporation seeking the license and, when received, shall be placed on file and shall be presented to the Council at its next regular meeting. (Ord. 6, 7-25-1989; 1996 Code)

3-2-4: LICENSE FEE:

A. Fee: At the time of filing an application for either of the licenses hereinbefore provided for, the applicant shall deposit with the City Administrator a fee in the amount established by the City Council by resolution from time to time.

B. Receipt: The City Administrator shall thereupon deliver to such applicant duplicate receipts therefor containing a statement of the purpose for which said deposit was made. One of such receipts shall be attached to and filed with such application.

C. Proration: For a period shorter than one year, the license fees shall be the full amount. (Ord. 6, 7-25-1989; 1996 Code)

3-2-5: LIMITED ON SALE LICENSE:

A. License Required: A limited on sale license may be issued to any person, bona fide club or organization, or for the conduct of an organized activity in a public park as provided in Title 7, Chapter 1 of this Code, upon application to the Administrator and compliance with Sections 3-2-3 and 3-2-4 of this Chapter.

B. License Fee: The fee for a limited on sale license shall be in the amount established by the City Council by resolution from time to time.

C. Term Of License: The license permits sale of nonintoxicating malt liquor for a period of no more than twelve (12) consecutive

hours during one day of any license year. (Ord. 6, 7-25-1989; 1996 Code)

3-2-6: INVESTIGATION<sup>1</sup>:

The Council shall direct such investigation of said application as it may deem necessary and the applicant shall permit the representatives of any City department to inspect and examine the place of business described in the application together with all the appliances and instruments used or to be used in the transaction of the business for which the license is sought, and upon receipt of such report the Council shall thereafter consider the application and grant or deny the same. (Ord. 6, 7-25-1989)

3-2-7: TERM OF LICENSE:

Licenses herein provided for shall expire on July 1 following the date of issuance. (Ord. 6, 7-25-1989)

3-2-8: HOURS OF SALE RESTRICTED:

No nonintoxicating malt liquor shall be sold either on sale or off sale between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on the days of Monday through Saturday nor between the hours of one o'clock (1:00) A.M. and twelve (12:00) noon on Sundays. No on sale licensee shall permit any such nonintoxicating malt liquor to be consumed on his or her premises during the hours when the sale thereof is prohibited by this Chapter. (Ord. 6, 7-25-1989)

3-2-9: PROHIBITED ACTS:

A. Sale To Minors: It shall be unlawful to sell such nonintoxicating malt liquor to any person under twenty one (21) years of age.

B. Dancing; Entertainment: Dancing wherein the public participates, and dancing, singing and other vaudeville exhibition for entertainment are hereby and at all times prohibited on the premises of any on sale licensee.

C. Intoxicating Liquor:

1. It shall be unlawful for any person duly licensed to sell nonintoxicating malt liquor but not duly licensed to sell intoxicating liquor, or for any of his agents, servants or employees, to have in their possession on said licensed premises intoxicating liquor for the purpose of consumption by anyone.

2. It shall be unlawful for such licensee, his agents, servants

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1. See also subsection 2-4-2B2 of this Code.

or employees to permit the consumption of intoxicating liquor upon said premises. (Ord. 6, 7-25-1989)

3-2-10: MUSIC, HOURS RESTRICTED:

All music, by whatever means provided, is hereby prohibited upon the premises of any on sale licensee between the hours of nine o'clock (9:00) P.M. of any one day and nine o'clock (9:00) A.M. of the following day, provided that an on sale licensee is hereby permitted to operate a radio or similar device and obtain music therefrom between said hours of nine o'clock (9:00) P.M. and nine o'clock (9:00) A.M.; provided further, that the tone of such radio is modulated so as not to annoy the occupants of nearby premises. The failure of any on sale licensee using a radio or similar device between said hours to keep the same from becoming a nuisance to occupants of nearby premises shall be deemed sufficient cause in the discretion of the Council to revoke his or her license to sell, such nonintoxicating malt liquors. (Ord. 6, 7-25-1989; 1996 Code)

3-2-11: LICENSEE LIABILITY:

Any act of any clerk, barkeeper, agent, servant or employee in violation hereof shall be deemed the act of the employer and licensee of such place as well as that of said clerk, barkeeper, agent, servant or employee, and every such employer and licensee shall be liable to all the penalties provided herein for the violation of same equally with the sales clerk, barkeeper, agent, servant or employee. (Ord. 6, 7-25-1989)

3-2-12: TAVERNS PROHIBITED:

It shall be unlawful for any person to keep or operate a tavern within the limits of the City. (Ord. 6, 7-25-1989)

3-2-13: SALE AND DELIVERY IN ORIGINAL PACKAGE:

Nothing herein contained shall be construed to prohibit the sale and delivery in original packages direct to the consumer by the manufacturer or distributor of nonintoxicating malt liquors. (Ord. 6, 7-25-1989)

3-2-14: REVOCATION OF LICENSE:

The conviction of the licensee or of any clerk, barkeeper, agent, servant or employee of said licensee on the violation of this Chapter shall be sufficient cause for the City Council to revoke any license issued to such licensee. (Ord. 6, 7-25-1989)

3-2-15: VIOLATION:

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor. (Ord. 6, 7-25-1989)

# Little Canada

## 703. INTOXICATING LIQUOR

703.010. LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation to keep or operate an on-sale or off-sale of intoxicating liquor establishment within the limits of the City without first having obtained a license to do so as hereinafter provided.

703.020. TYPES OF LICENSES. There shall be four (4) types of licenses issued for the sale of intoxicating liquor, namely:

(a) On-Sale restaurant licenses shall permit the licensee to sell intoxicating liquor for consumption on the premises in conjunction with the consumption of food.

(b) On-sale intoxicating liquor license shall permit the sale of intoxicating or 3.2 percent malt liquor in conjunction with dancing, singing, or vaudeville performances or entertainment for its guests.

(c) Off-sale intoxicating liquor license shall permit the licensee to sell intoxicating liquor in original packages for consumption off the premises only.

(d) Temporary on-sale intoxicating liquor licenses shall permit the licensee to sell intoxicating liquor for a specified period pursuant to Section 703.110.

703.030. MINIMUM STANDARDS FOR "ON-SALE RESTAURANT" INTOXICATING LIQUOR LICENSE. The following minimum requirements must be satisfied prior to the issuance of an "On-sale Restaurant" intoxicating liquor license.

(1) Initial Investment. An applicant for an "on-sale restaurant" license must initially invest or propose to invest in the business a minimum of Three Hundred Fifteen Thousand Dollars (\$315,000.00), including all fees, site development, utilities, furnishings, fixtures and construction costs based upon 1999 construction costs. The required amount shall be periodically adjusted upward or downward by amendment to this section to reflect changes in construction costs as reflected in commonly accepted construction costs indices. In the case of multi-purpose buildings such as shopping centers, motels, hotels, and the like, only that portion of the building directly attributable to the preparation, handling, storing, consumption or serving of food and liquor shall be considered in determining the value of the investment. In the event that a license is proposed for an existing structure, the value shall be determined by review of documents evidencing a sale of the property within the twelve (12) months preceding issuance of a license for the property in question. All documented costs associated with the renovation and furnishing of the property may be added to the purchase price when evaluating compliance with the initial investment requirement. An applicant holding a leasehold interest in property may also use the fair market value of the property for real estate tax purposes as determined by the City Assessor in the year the license is first issued for determining whether the initial investment requirement has been satisfied. An applicant purchasing an existing licensed business and requesting a license transfer must establish that the fair market value of the business equals the amount of the initial investment required hereunder. The

Council may provide for an independent appraisal at applicant's expense, as an aid in determining the investment or the value of said business. In the event this requirement as to investment is not complied with within one year from the date of issuance of the license, the license may be revoked or suspended.

(2) Building Area. A restaurant building containing a minimum of 1,500 square feet used for seated dining purposes, including the bar area but excluding the area used for kitchen, storage, restroom facilities, waiting areas, and entrance and exit purposes.

(3) Seating Capacity. A restaurant building having appropriate facilities and adequate staff to serve meals at tables and, for seating not less than 90 guests at one time for meals, including seating available for food service in the bar area but excluding seating in a lounge or waiting area.

(4) Maximum Liquor Sales. The sale of intoxicating liquor, wine or 3.2 percent malt beverages shall not exceed 40 percent of the restaurant's gross yearly sales. Evidence of compliance with this requirement shall be furnished by licensee with annual renewal information submitted to City.

703.040. WRITTEN APPLICATION.

(1) Every application for a license to sell intoxicating liquor shall be made to the City Administrator on a form supplied by the City and containing such information as the City Administrator for the City Council shall require. Each application shall include, at a minimum, the name and place of residence of the applicant, the exact location of the place at which the applicant proposes to carry on the business of selling 3.2 percent malt liquor, and whether or not he or she has at any time previous to the date thereof been engaged in said business or in the business of selling food stuffs in the City, and if so, when and where. It shall be unlawful to make any false statement in an application. Every application for the issuance or renewal of a license shall include a copy of each Summons received by the applicant under Minnesota Statutes Section 340A.082 during the preceding years.

(2) Temporary On-Sale License. Temporary On-Sale licenses shall be issued only to clubs or charitable religious, or other nonprofit organizations in existence for at least three (3) years prior to the date of application. Proof of eligibility must accompany an application for Temporary On-Sale license. Applications shall be made thirty (30) days in advance on forms prescribed by the City Administrator. No licenses shall be valid prior to approval by the Commissioner of Public Safety. The application must state the days of sale for which a license is requested, and a new application must be completed and submitted for each additional period. The minimum requirement for proof of financial responsibility may be given by filing:

(a) a certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for

loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; or

(b) a bond of a surety company with minimum coverages as provided in paragraph (a); or

(c) a certificate of the state treasurer that the licensee has deposited with the state treasurer \$300,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$300,000.

(3) Off-Sale License. An off-sale license may only be granted to an exclusive liquor store.

(4) On-Sale Intoxicating Liquor License. Each license shall state whether or not the applicant proposes to afford the privilege of dancing to his or her guests or whether vaudeville entertainment will be afforded or whether both will be provided. In case the applicant proposes to afford the public the privilege of dancing, the application shall set forth the amount of floor space available which the applicant proposes to maintain for dancing purposes.

(5) On-Sale Restaurant Intoxicating Liquor License. Each application and "On-Sale Restaurant" intoxicating liquor license shall include sufficient evidence to confirm that the applicant has satisfied the requirements of Section 703.030 of this Chapter.

(6) Proof of Financial Responsibility. Prior to the issuance of an intoxicating liquor license, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes Section 340A.409, Subdivision 1, with reference to liability under Minnesota Statutes Section 340A.801. The applicant shall demonstrate that such proof has been filed with the Commissioner of Public Safety where required under Minnesota Statutes Section 340A.409. Proof of financial responsibility shall be required prior to the issuance of any intoxicating liquor license, including temporary on-sale licenses, regardless of the provisions of Minnesota Statutes Section 340A.409, Subdivision 4. Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to the requirements of Minnesota Statutes Section 340A.409. The minimum requirement for proof of financial responsibility may be given by filing:

(a) a certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; or

(b) a bond of a surety company with minimum coverages as provided in paragraph (a); or

(c) a certificate of the state treasurer that the licensee has deposited with the state treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

(7) Approval of Security. Liability insurance policies required by this Chapter shall be approved as to form by the City Attorney. Operation of a business licensed by this ordinance without having on file with the State Insurance Commissioner or the City at all times effective security as required in Subdivision 2 is cause for immediate revocation or suspension of the license.

(8) Special Event on City Property: A liability insurance policy for a special event to be held on City property shall name the City as an additional insured.

703.050. LICENSE FEES.

(1) Each application for a license shall be accompanied by a receipt for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the City shall refund the amount paid.

(2) Every license except a temporary license shall run for a period of one (1) year from July 1 of each year. A temporary on-sale license shall run for a specified period pursuant to Section 703.110. If a portion of the license year has elapsed when the license is granted, the license shall be issued for the remainder of the year for a pro rata fee. In computing such a fee, any unexpired fraction of a month shall be counted as one (1) month.

(3) The license fees for an on-sale restaurant intoxicating liquor license, on-sale intoxicating liquor license, off-sale license, and a temporary on-sale license shall be as set forth by City Council resolution.

703.060. INSPECTION OF PREMISES. The Council shall direct such investigation of said application as it may deem necessary, and each application shall require written consent permitting the representatives of any City Department to inspect and examine the place of business described in the application together with all the appliances and instruments used or to be used in the transaction of the business for which a license is sought, and upon receipt of such report the Council shall thereafter consider the application to grant or deny the same.

703.070. INVESTIGATION FEE. A non-refundable investigation fee of Five Hundred Dollars (\$500.00) shall be submitted with each initial application for an on-sale intoxicating liquor license. No investigation fee is required when the applicant has previously qualified for a 3.2 percent or intoxicating liquor license within the City of Little Canada.

703.080. APPROVAL OR DENIAL OF LICENSE APPLICATION.

(1) The City Council shall investigate all facts set out in the application. The investigation shall include an inspection of the premises by the local Fire Chief and a search to



determine whether or not the applicant has a police record. After such investigation and hearing, the Council shall grant or refuse the application in its discretion.

(2) Each license shall be issued to the applicant only and shall not be transferrable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the Council. Upon the death of an intoxicating liquor license, his or her personal representative may continue operation of the business within the terms of the license for a period of up to but not exceeding 90 days.

703.090. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or held by any person who:

(1) Is under 21 years of age;

(2) Has, within five (5) years prior to the application for such license, been convicted of violating any law of this State or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating or 3.2 percent malt liquor, and cannot show competent evidence under Minnesota Statutes Section 364.03 of sufficient rehabilitation and present fitness to perform the duties of an intoxicating liquor licensee;

(3) Is a manufacturer of intoxicating liquor or is interested in the control of any place where intoxicating liquor is manufactured;

(4) Is not a citizen or resident alien;

(5) Is not of good moral character;

(6) Is not the proprietor of the establishment for which the license is to be issued;

703.100. CONDITIONS OF LICENSE AND GROUNDS FOR SUSPENSION OR REVOCATION.

(1) Every license shall be granted subject to the conditions in the following paragraphs and all other provisions of this ordinance and of any other applicable ordinances of City or State law.

(2) Compliance with financial responsibility requirements of State law and of this ordinance is a continuing condition of any license granted pursuant to this chapter.

(3) No 3.2 percent malt liquor or intoxicating liquor shall be sold or served to any obviously intoxicated person or to any person under 21 years of age.

(4) No person under the age of 21 years shall be permitted to consume 3.2 percent malt liquor or intoxicating liquor on a licensed premises.

(5) No corporation to which a license has been granted shall transfer any stock in such corporation without the consent of the City Council. The officers of any corporation holding a license shall notify the City Council of any proposed sale or transfer of any stock in the corporation. The transfer of any stock without the knowledge and consent of the City Council shall be deemed sufficient cause for revocation of the license by the Council.

(6) No manufacturer or wholesaler of intoxicating liquor shall have any ownership of, or interest in, an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes Section 340A.301, Subdivision 7. No retail licensee or manufacturer or wholesaler of intoxicating liquor shall be a party to any exclusive purchase contract. No retail licensee shall receive any benefits contrary to law from a manufacturer or wholesaler of intoxicating liquor and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

(7) No person under 18 years of age may serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

(8) There shall be no dancing, exhibitions or entertainment on the premises of an intoxicating liquor licensee unless said licensee holds a "Dancing and Entertainment" license, or the premises are covered by a temporary "on-sale" license.

(9) No intoxicating liquor licensee shall allow music on the premises between the hours of 9:00 o'clock p.m. and 9:00 o'clock a.m., except where the licensee has obtained a "Dancing and Entertainment" license, or the premises are covered by a temporary "on-sale" license. Such licensee shall, however, be permitted to operate a radio or phonograph between the hours of 9:00 o'clock p.m. and 9:00 o'clock a.m., so long as said radio or phonograph is not an annoyance to occupants of nearby premises, and does not violate local ordinances and State law defining excessive noise as a public nuisance.

(10) No licensee shall keep, possess or operate or permit the keeping, possession or operation of, on any licensed premises, or in any room adjoining the licensed premises, any slot machine, dice, or any gambling device or apparatus, whether or not said devices are being used in violation of M.S. 609.755 or 609.76. A black jack table which is not being used in violation of M.S. 609.755 or 609.76 shall be exempt from this prohibition. No licensee shall permit any gambling on licensed premises. This Section shall not preclude lawful gambling pursuant to M.S. 349 nor shall it preclude the possession of properly licensed and registered gambling equipment as defined in M.S. 349.12, Subd. 15. No licensee shall permit the licensed premises or any room therein or any room in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons.

#### 703.110. RESTRICTIONS ON NUMBER OF LICENSES.

(1) The number of "off-sale" licenses within the City shall not exceed three (3) until such time as the population of the City reaches twenty thousand (20,000) residents. At such time one (1) additional "off-sale" license shall become available.

(2) The number of "on-sale" intoxicating liquor licenses issued in the City of Little Canada shall not exceed four (4), plus the two additional "on-sale" intoxicating liquor licenses authorized by Chapter 240, 1987 Laws. No more than five (5) on-sale intoxicating liquor licenses shall be issued and no more than one (1) "on-sale restaurant" intoxicating liquor license shall be issued.

(3) (a) No more than three four-day, four three-day, or six two-day temporary licenses, in any combination not to exceed twelve days per year may be issued for the sale of intoxicating liquor to any one organization or registered political committee, or for any one location, within a twelve-month period.

(b) No more than one temporary license may be issued for the sale of intoxicating liquor to any one organization or registered political committee, or for any one location, within any thirty-day period.

#### 703.120. LIMITATION OF LICENSE.

(1) No license shall be issued for premises located within an area where such use of the premises is prohibited by the zoning ordinance nor within an area where such sales are forbidden by State law or any other ordinance of the City.

(2) No license shall be issued for premises located within 800 feet of any school building or church located within the City. The method of measurement to be used for determining such distance shall be the shortest distance between the buildings, measured from the point of each building which is closest to the other building. This restriction shall not apply to premises covered by a temporary "on-sale" license.

(3) No "off-sale" license shall be issued to a place where 3.2 percent malt liquor is sold for consumption on the premises.

(4) No license shall be issued to any person in connection with the premises of another to whom no license could be issued under the provisions of the State Liquor Control Act provided, however, that this provision shall not prevent the granting of a license to a proper lessee by reason of the fact that he or she shall lease the premises to a minor, non-citizen or a person who has been convicted of a crime other than a violation of this Chapter, or violations of State or local gambling laws.

(5) Not more than one (1) retailers license shall be directly or indirectly issued to any one person or for any one place in the City, nor shall any retailers "on-sale" or "off-sale" license be directly or indirectly issued for any place for which a license of another class has been granted.

(6) No more than one license shall be issued to any person in the municipality.

(7) No retail license to sell alcoholic beverages may be issued or renewed to a club which discriminates against members or applicants for membership or guests of members on the basis of race.

703.130. VIOLATION BY AGENT. Every licensee is responsible for the conduct and the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell such beverage is the act of the licensee.

703.140. OPERATION HOURS.

(1) No "on-sale" sale of liquor shall be made after one o'clock a.m. on Sunday, nor until eight o'clock a.m. on Monday, except as provided herein. No such "on-sale" shall be made on Tuesday, Wednesday, Thursday, Friday or Saturday, between the hours of one o'clock a.m. and eight o'clock a.m. On Sunday, no such "on-sale" sale shall be made except between the hours of ten o'clock a.m. and one o'clock a.m. on Monday.

(2) No "off-sale" sales of such liquor shall be made before 8:00 a.m. or after 8:00 p.m. on Monday, Tuesday, Wednesday and Thursday, and before the hour of 8:00 a.m., or after the hour of 10:00 p.m. on Friday and Saturday, and no such "off-sale" sales of liquor shall be made at any time on Sunday. No "off-sale" sales shall be made on Thanksgiving Day or on Christmas Day, December 25, or after 8:00 p.m. on Christmas Eve, December 24. "Off sale" sales may be made until 10:00 p.m. on December 31 and July 3, and on the day preceding Thanksgiving Day, unless these days are a Sunday.

(3) No "on-sale" licensee shall permit the consumption of intoxicating liquor on the premises during the hours when sale is prohibited, except that the licensee shall be allowed a thirty minute period following closing to clear the premises. Any customer purchasing intoxicating liquor prior to 1:00 o'clock a.m. may consume such beverage on the premises until 1:30 o'clock a.m. Under no circumstances shall any individuals, whether or not customers, other than the owners or employees of the licensee, be allowed to remain on the premises after 1:30 o'clock a.m.

703.150. EXCEPTIONS OF SALE. This Chapter shall not be construed to prohibit the sale of wine for sacramental purposes by any person duly licensed by the State Liquor Control Commissioner, nor shall this Chapter be construed to prohibit the sale of medicine, nor of industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical or industrial purposes nor to compound or preparations containing alcohol, if such compounds or preparations are not potable as a beverage, nor shall it be construed to prohibit the sale of intoxicating liquor for medicinal purposes by a duly licensed and registered pharmacist or druggist upon a bona fide prescription, in writing, by a physician or dentist.

703.160. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

(1) The provisions of Minnesota Statutes Section 340A are hereby incorporated by reference into this ordinance, and the sale, purchase or possession of alcohol contrary to State law

shall be a violation of this ordinance.

(2) It shall be unlawful for any person to consume intoxicating liquor in any theater, recreation hall, center, dance hall, ball park, or other place of public gathering used for the purpose of entertainment, amusement or playing of games, unless the owner or lessee of the property or sponsor of the event has obtained a license or a permit issued by the Park and Recreation Director, or his designee.

703.161. GAMBLING DEVICES PROHIBITED. It shall be unlawful for any person duly licensed to sell intoxicating liquor, to keep, possess or operate or permit the keeping, possession or operation of, on any licensed premises, any slot machine, dice, black jack table, or any gambling device or apparatus, whether or not said devices are being used in violation of M.S. 609.755 or 609.76. A black jack table which is not being used in violation of M.S. 609.755 or 609.76 shall be exempt from this prohibition. It shall be unlawful for any licensee to permit any gambling on licensed premises. This Section shall not preclude lawful gambling pursuant to M.S. 349 nor shall it preclude the possession of properly licensed and registered gambling equipment as defined in M.S. 349.12, Subd. 15.

703.170. SUSPENSION AND REVOCATION. The Council shall either suspend for up to 60 days or revoke any intoxicating liquor license, or impose a civil fine not to exceed \$2,000.00, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing. The lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or security, shall effect an immediate suspension of the license. Any suspension under this chapter shall continue until the City Council determines that the financial responsibility requirements of this chapter have met.

703.180. SPECIAL SUNDAY SALE. The holder of an "on-sale" liquor license under the Code, may apply to the Council for a special license to sell intoxicating liquor in a restaurant on Sunday, provided that the liquor may be served in conjunction with the sale of food. The application for such license may be made at the same time and upon the same license as the "on-sale" licensee uses to apply for his/her regular "on-sale" license. The fee for a special Sunday liquor license shall be set forth by City Council resolution. No such license shall be issued to any "on-sale" licensee unless said licensee is operating a benefited restaurant serving meals regularly to the public and having facilities for serving at least 30 people at one time. No intoxicating liquor shall be served before 10:00 o'clock a.m. or after 1:00 o'clock a.m. on Sunday.

(Source: Ord. 2, 14, 15, 16, 17, 18, 19, 48, 55, Amended: Ord. 20, 43, 48, 56, 87, 96, 112, 123, 132, 158, 174, 176, 178, 221, 249, 290, 302, 325, 329, 345, 348, 355, 361, 365, 435, 496, 513, 522)

ST. Anthony

## CHAPTER 10. ALCOHOLIC BEVERAGES

### Section 1000 - REGULATIONS

1000.01 Definitions. For purposes of this Code, the following terms have the following meanings:

Subd. 1. Beer. Nonintoxicating malt liquor as defined in Minn. Stat. §340A.101, Subd. 19.

Subd. 2. Restaurant. An establishment, under the control of a single proprietor, having seating for at least 50 people with appropriate facilities for serving meals, where meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service of such meals.

Subd. 3. Other Terms. Other terms used in this Section will have the meanings given them in Minn. Stat. §340A.101.

1000.02 License Required.

Subd. 1. Intoxicating Liquor. No person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of intoxicating liquor as part of a commercial transaction except an employee of the City doing so on behalf of the City or except a person doing so pursuant to an on-sale wine license issued under Section 1005.

Subd. 2. "On-Sale" and "Off-Sale" Licenses. No person may sell, vend, deal in or dispose of, or keep for sale, any beer within the City without first having received an appropriate license. Licenses are of two kinds: "on-sale" and "off-sale".

Subd. 3. Retail On-Sale Licenses. Retail on-sale licenses permit the licensee to sell beer for consumption on the premises only. Except for temporary licenses issued under Subd. 5 of this Subsection, "on-sale" licenses may be granted only to a restaurant.

Subd. 4. Retail Off-Sale Licenses. Retail off-sale licenses permit the licensee to sell beer in original packages for consumption off the premises only.

Subd. 5. Temporary Licenses.

- (a) The City Council may issue a temporary on-sale license for the sale of beer to a club or charitable, religious, or nonprofit organization.
- (b) The temporary license may authorize the sale of beer in any school or school buildings.
- (c) Any such temporary license is subject to any terms and conditions established by the City Council in granting the license.

1000.03 Application for license. An application for a license to sell beer must be made on a form supplied by the Clerk. The application must include the name of the applicant, applicant's age, representations as to applicant's character and any references required, citizenship status, the address and legal description of the premises to be licensed, the names of all owners of the premises and operator of the business, the period applicant has been in business at such location, and such other information as the Council may require from time to time. It is unlawful to make any false statement in the application.

1000.04 Fees. Applications for licenses must be accompanied by the license fee set forth in Subsection 615.06. All fees will be paid into the general fund of the City. Upon rejection of any application for a license, the amount paid will be refunded.

1000.05 Granting of Licenses. The Council may require an investigation to be made of the facts set forth in the application. After the investigation, the Council may grant or refuse the license in its discretion. All licensed premises must have the license posted in a conspicuous place at all times.

1000.06 Conditions of Licenses.

Subd. 1. Conditions of Licenses. In addition to all applicable state laws, other provisions of this Section and any other applicable sections of this Code, all licenses are subject to the conditions set forth in the following subdivisions.

Subd. 2. Issuance. Except for temporary licenses issued under Subsection 1000.02, Subd. 5, license will be issued only to a person qualified under Minn. Stat. §340A.401 and who is the proprietor of the establishment for which the license is issued.

Subd. 3. Convicts or Felons. No license may be granted to any person who has been convicted of a felony, or of any lesser violation of any federal law or regulation, or any law of Minnesota or any other state, or any municipal ordinance, if the lesser violation is one relating to manufacture or transportation of intoxicating liquors or beer.

Subd. 4. Revocation and Suspension.

(a) City Council Discretion.

1. Granting or Refusing of License. All facts set out in the applications shall be investigated. After such investigation, the Council shall grant or deny the license in its discretion. Each license granted shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the compact and contiguous premises described in the application. No license may be transferred to another place without the approval of the City Council.
2. Compliance Checks and Inspections. All licensed premises shall be open to inspection by the Police Department or other authorized City official during regular business hours. At least once per year, the City shall conduct compliance checks by engaging, young adults over the age of 18 and less than 21 years, to enter the licensed premises to attempt to purchase intoxicating or 3.2 percent malt liquor. Minors used for the purpose of compliance checks shall be supervised by City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of intoxicating or 3.2 percent malt liquor when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or the licensee's employee and shall produce any identification, if any exists, for which the minor is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

(b) Revocation or Suspension of License.

1. Hearing Notice. Revocation or suspension of a license by the City Council shall be preceded by public hearing conducted in accordance with Minnesota Statutes Section 14.57 to 14.70. The City Council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least 10 days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee.
2. Grounds for Revocation or Suspension of License. The Council may suspend or revoke any license for the sale of intoxicating or 3.2 percent malt liquor for any of the following reasons:



- i. False or misleading statements made on a license application or renewal, or failure to abide by the commitments, promises or representations made to the City Council.
- ii. Violation of any special conditions under which the license was granted, including, but not limited to, the timely payment of real estate taxes, and all other charges.
- iii. Violation of any Federal, State, or local law regulating the sale of intoxicating liquor, 3.2 percent malt liquor, or controlled substance.
- iv. Creation of a nuisance on the premises or in the surrounding area.
- v. That the licensee suffered or permitted illegal acts upon the licensed premises or on property owned or controlled by the licensee adjacent to the licensed premises, unrelated to the sale of intoxicating liquor or 3.2 percent malt liquor.
- vi. That the licensee had knowledge of illegal acts upon or attributable to the licensed premises, but failed to report the same to the police.
- vii. Expiration or cancellation of any required insurance, or failure to notify the City within a reasonable time of changes in the term of the insurance or the carriers.
- viii. Failure of an establishment granted a license to exhibit satisfactory progress toward completion of construction within 6 months from its issuance, or failure of an establishment to operate for a period of 6 months. A hearing shall be held to determine what progress has been made toward opening or reopening the establishment and, if satisfactory progress is not demonstrated, the Council may revoke the license.

### 3. Presumptive Civil Penalties.

- i. Purpose. The purpose of this Section is to establish a standard by which the City Council determines the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this Chapter. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's

efforts in combination with the State or City to prevent the sale of alcohol to minors. When deviating from these standards, the Council will provide written findings that support the penalty selected.

- ii. Presumptive Penalties for Violations. The minimum penalties for convictions or violations must be presumed as follows (unless specified, numbers below indicate consecutive days' suspensions):

Type of Violation	Appearance			
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>
1. Commission of a felony related to the licensed activity	Revocation	N/A	N/A	N/A
2. Sale of alcoholic beverages while license is under suspension	Revocation	N/A	N/A	N/A
3. Sale of alcoholic beverages to under-age persons	\$500	6 days	18 days	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person	\$500	6 days	18 days	Revocation
5. After hours sale of alcoholic beverages	\$500	6 days	18 days	Revocation
6. After hours display or consumption of alcoholic beverages	\$500	6 days	18 days	Revocation
7. Refusal to allow City inspectors or police admissions to inspect premises	\$500	15 days	Revocation	
8. Illegal gambling on	\$500	6 days	18 days	Revocation

	premises				
9.	Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	\$500	6 days	18 days	Revocation
10.	Sale of intoxicating liquor where only license is for 3.12 percent malt liquor	Revocation	N/A	N/A	N/A

The Council may impose a 3 day suspension for failure to pay the required fine on the first appearance.

- iii. Multiple Violations. At a licensee's first appearance before the Council, the Council must act upon all of the violations that have been alleged in the notice sent to the licensee. The Council in that case must consider the presumptive penalty for each violation under the first appearance column in ii. above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the Council's discretion.
- iv. Subsequent Violations. Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the Council, unless the City Manager and licensee agree in writing to add the violation to the first appearance. The same procedure applies to a second, third or fourth appearance before the Council.
- v. Subsequent Appearances. Upon a second, third or fourth appearance before the Council by the same licensee, the Council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the Council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this Section.
- vi. Computation of Appearances. After the first appearance, a subsequent appearance by the same licensee will be determined as follows:

- aa. If the first appearance was within 18 months of the current violation, the current violation will be treated as a second appearance.
  - bb. If a licensee has appeared before the Council on 2 previous occasions, and the current violation occurred within 30 months of the first appearance, the current violation will be treated as a third appearance.
  - cc. If a licensee has appeared before the Council on 3 previous occasions, and the current violation occurred within 42 months of the first appearance, the current violation will be treated as a fourth appearance.
  - dd. Any appearance not covered by aa, bb, or cc above will be treated as a first appearance.
- vii. Other Penalties. Nothing in this Section shall restrict or limit the authority of the Council to suspend up to 60 days, revoke the license, or impose a civil fine not to exceed \$2,000 for each violation, to impose conditions, or impose any combination of the foregoing sanctions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for this Chapter.

Subd. 5. Premises Open to Inspection. All licensed premises will be open to inspection by any police or health officer or other properly designated officer or employee of the City, or any member of the Council, at any time during which the licensed premises are open to the public.

Subd. 6. Gambling. No illegal gambling or illegal gambling device is permitted in any licensed premises.

Subd. 7. Issuance to Applicant Only. Any license issued under this Section will be issued to the applicant only, and only for the premises described in the application. The license is not transferable to another person or to other premises.

Subd. 8. Manufacturer. No manufacturer of beer, nor any affiliated company, may be licensed to sell beer. A manufacturer of beer may, without a license, sell beer to licensed dealers holding either "on-sale" or "off-sale" licenses, and may sell and deliver the same in quantities of not less than two gallons directly to consumers at their homes.

Subd. 9. Term. Except for temporary licenses issued under Subsection 1000.02, Subd. 5, licenses for the sale of beer are issued for a period of one year. However, for the purpose of coordinating the time of expiration of all such licenses in the City, licenses may be issued for a shorter time to expire at a given time of the year, in which case a pro rata fee will be charged.

Subd. 10. All licensees must provide the City with proof of compliance by the applicant with the liability insurance requirements of Minn. Stat. §340A.409.

1000.07 Minors. A violation of Minn. Stat. §340A.503 pertaining to persons under 21 years of age will be deemed a violation of this Code with respect to either beer or intoxicating liquor.

1000.08 Hours of Operation. No beer may be:

- (a) sold between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, inclusive;
- (b) sold on Sunday between the hours of 1:00 a.m. and 12:00 noon;
- (c) served, consumed, or available for consumption, at the licensed premises when sale is prohibited under this Section.

1000.09 Clubs. No club may sell beer to persons other than members or guests in the company of members.

1000.10 Revocation. Any license granted under this Section may be suspended or revoked by the Council in the manner provided in Section 1000.06, Subd. 4. Any violation of Section 1000, or any falsification of a statement in the application, will be grounds for revocation. No portion of the license fee will be returned upon revocation.

1000.11 Compliance with State Law. All licenses issued pursuant to this Section and all operations of "on-sale" and "off-sale" businesses within the City, are subject to Minn. Stat. §340A.411 in addition to the provisions of this Section.

1000.12 Sale of "Set-Ups"

Subd. 1. Permit Required. It is unlawful for any private club or public place, directly or indirectly, or upon any pretense or by any device, to allow the consumption or display of intoxicating liquor, or the serving of any liquid for the purpose of mixing with intoxicating liquor, commonly called "set-ups," without first having obtained approval of the Council and a permit from the Commissioner of Public Safety.

Subd. 2. Approval in Writing. No permit will be approved by the Council unless the applicant agrees in writing that as a condition of the approval, "set-ups" will be served only in a room separate and apart from any room licensed for the sale of intoxicating liquor. A violation of this provision will be cause for revocation of the permit.

Subd. 3. Fees. Each person obtaining approval of the Council and a permit from the Commissioner of Public Safety must pay to the Clerk the fee set forth in Section 600. Approval of the permit may be revoked at any time for cause by the Council in the manner provided in Section 1000.06, Subd. 4. The revocation will not entitle the holder of the permit to a rebate of any portion of the fee.

1000.13 Existing Licenses. Any premises for which an "on-sale" license was in effect on September 14, 1982, will qualify for the issuance or renewal of an "on-sale" license, notwithstanding the fact that the premises is not a restaurant as defined in Section 1000.01, Subd. 2, if (a) the other requirements for issuance or renewal of the license are met, (b) the premises has not been without an "on-sale" license for a period of more than 6 months, and (c) sale of beer for consumption on the premises has not ceased for a period of more than 6 months.

1000.14 Consumption. No person may consume intoxicating liquor in a public park, on a public street or in any public place other than a City on-sale liquor store.

#### Section 1005 - ON-SALE WINE LICENSE

1005.01 License Required. A "restaurant", as defined in Section 1001, Subd. 2, may sell wine, not exceeding 14% alcohol by volume, at retail only for consumption on the restaurant's premises after obtaining an "on-sale" wine license from the City in accordance with this Section.

1005.02 Application. Applications for an on-sale wine license must be made on forms supplied by the City.

1005.03 Fees. Applications for licenses must be accompanied by the application processing fee and the license fee set forth in Subsection 615.06. All such fees will be paid into the general fund of the City. Upon rejection of any application, the processing fee will be retained by the City and the license fee will be refunded to the applicant.

1005.04 Granting of License. The Council will cause an investigation to be made of the facts set forth in the application. After the investigation, the Council in its discretion may grant or refuse the license; however, no license will become effective until approved by the Liquor Control Division of the Minnesota Department of Public Safety. All licensed premises must have the license posted in a conspicuous place at all times.

1005.05 Conditions. In addition to all applicable state laws and any other applicable provisions of this Code, on-sale wine licenses will be subject to the same conditions for beer licenses as set forth in Section 1000.06.

1005.06 Minors. The provisions of Section 1000.07 apply to wine.

1005.07 Hours of Operation. Licensees under this Section must observe the hours restrictions set forth in Minn. Stat. §340A.504.

1005.08 State Law. Licenses issued under this Section are subject to all provisions of Minn. Stat. Chapter 340A. in addition to the provisions of this Section.

1005.09 Temporary Wine Licenses.

- (a) The City Council may issue to a club or charitable, religious, or other nonprofit organization in existence for at least three years a temporary license for the on-sale of wine in connection with a social event within the City sponsored by the licensee.
- (b) The license may authorize the on-sale of wine for not more than three consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies.
- (c) The license may provide that the licensee may contract for wine catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality.
- (d) The licenses are subject to the terms, including a license fee, imposed by the City. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except Minn. Stat. §340A.409 and those laws and ordinances which by their nature are not applicable.
- (e) Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.
- (f) No organization will be issued more than three temporary wine licenses during any 12-month period.

Section 1010 - MUNICIPAL LIQUOR

1010.01 Definitions. The words used in this Section will have the meanings given them in Minn. Stat. §340A.101, and the term "liquor" as used in this Code means "intoxicating liquor" as defined in Minn. Stat. §340A.101.

1010.02 Stores Established. There are hereby established municipal stores for the on-sale and off-sale of liquor.

1010.03 Location and Operation. The stores will be located at places determined by the Council and as authorized by State law.

1010.04 Liquor Fund. A municipal liquor fund is hereby created. All revenues received from the operation of the City's liquor stores will be deposited in that fund. All ordinary operating expenses of the stores will be paid from the fund. Surpluses accumulated in the fund may be transferred, by resolution of the Council, to the general fund or to any other appropriate fund to be expended for municipal purposes. The handling of the municipal liquor receipts and disbursements must comply with the procedures prescribed by law for receipt and disbursement of municipal funds generally.

1010.05 Hours of Operation. The hours of operation of City liquor stores will comply with Minn. Stat. §340A.504. The City liquor stores will not be open for business of any kind during the hours when sales of intoxicating liquor are prohibited.

1010.06 Operation and Restrictions.

Subd. 1. Credit. No alcoholic beverages may be sold on credit.

Subd. 2. Minors. No City liquor store may be operated in violation of Minn. Stat. §340A.503 pertaining to persons under 21 years of age.

Subd. 3. Intoxicated Persons. No person may sell, give, furnish, or in any way procure for another alcoholic beverages for the use of an obviously intoxicated person.



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ALCOHOLIC BEVERAGES 6-1.01 - 6-2.01

CHAPTER 6. ALCOHOLIC BEVERAGES

SECTION 1. GENERAL

6-1.01 Provisions of State Law Adopted.

The provisions of the Minnesota Liquor Act, Minnesota Statutes Section 340A, with reference to the definition of the terms, application for license, grant of license, conditions of license, restrictions on consumption, provisions on sales, conditions of bonds or insurance of licensees, hours of sale, and all other matters pertaining to the retail sale distribution, and consumption of alcoholic beverages are adopted and made a part of this section as if fully set out except as modified herein. All future amendments to said chapter are incorporated in this section.

6-1.02 License Required.

Except for alcohol wholesalers and manufacturers, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

SECTION 2. TYPES OF ALCOHOL RELATED LICENSES AND PERMITS

6-2.01 On Sale Licenses

- A. Intoxicating Liquor. On-sale licenses shall be granted only to restaurants and establishments where meals are regularly served at tables to the general public, and have a seating capacity for not less than 30 guests at one time; and beverages is incidental to the principal business which is the sale of food. For restaurants, "incidental" sale of alcoholic beverages means that the sale of intoxicating liquor and non-intoxicating malt liquor during any given three month period shall not account for more than 45 percent of the gross receipts and that the sale of food during any given three month period shall account for at least 55 percent of the gross receipts. In the event a restaurant includes a bar or lounge or some similar area in which the principal activity is the sale and consumption of alcoholic beverages, such bar or lounge area shall not contain more than 30 percent of the total seating

capacity of the restaurant. The number of on-sale licenses shall be limited to two (2).

- B. Sunday. Sunday "on-sale" licenses shall be issued pursuant to Minnesota Statutes, Section 340A.504, Subd.3.
- C. Wine. On-sale wine licenses shall be issued for consumption of wine on the premises. Wine licenses shall be granted only to a restaurant having facilities for seating of at least 25 guests at one time. A wine license permits the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food. The number of wine licenses shall be limited to three (3).
- D. Non-Intoxicating Malt Liquor. Licenses shall be granted only to clubs, restaurants and establishments used exclusively for the sale of non-intoxicating malt liquor for consumption on the premises. The number of non-intoxicating malt liquor licenses shall be limited to four (4). Exemption: Any person licensed to sell intoxicating liquor at on-sale shall not be required to obtain an on-sale license under this section, and may sell non-intoxicating malt beverages at on-sale without further license.
- E. Wine and Non-Intoxicating Malt Liquor. Persons who hold both an on-sale wine license and an on-sale non-intoxicating malt liquor license and whose gross receipts are at least 60 percent attributable to the sale of food, are authorized to sell intoxicating malt liquors at on-sale without an additional license.

#### 6-2.02 Off Sale Licenses

- A. Retail Liquor Stores. Licenses shall be granted only to exclusive liquor stores where retail or wholesale sales are made in the original package for consumption off the premises only. The number of off-sale licenses shall be limited to one (1).
- B. Non-intoxicating Malt Liquor. Licenses shall permit the sale of non-intoxicating malt liquor at retail or at wholesale in the original package for consumption off the premises. The number shall be limited to four (4). Exemption: Any person licensed to sell intoxicating liquor at off-sale may sell non-intoxicating malt beverages at off-sale without further license.

#### 6-2.03 Bottle Club. Any person owning or operating a club or business establishment who obtains a bottle club permit from the Minnesota Commissioner of Public Safety (pursuant to Minnesota Statutes Section

340A.414 shall also obtain a license from the city. The number of permits shall be limited to one (1).

6-2.04 On-Sale/Off-Sale Combination Liquor Licenses. No license permitting "off-sale" and "on-sale" of alcoholic beverages on the premises shall be granted.

6-2.05 Temporary Permits.

A. One Day Consumption and Display Permits. The city may issue a one-day permit for the sale or consumption and display of intoxicating liquor under this section to a non-profit organization in conjunction with a social activity in the city sponsored by the organization. The non-profit association must first have obtained a permit from the Minnesota Commissioner of Public Safety before the city may grant a one-day permit. The permit is valid only for the day indicated on the permit. No more than ten (10) permits may be issued under this section in any one year. Such permit shall describe and specify the conditions under which the permit is issued and shall include the following information:

- a. The place to which the permit pertains;
- b. The person(s) to whom the permit is issued;
- c. Any other conditions or restrictions that the city council shall deem necessary to adequately provide for the public welfare and safety including conditions and restrictions relative to insurance that must be obtained for the event(s) and to the type of alcoholic beverages that may be sold or consumed and the hours during which such beverage may be sold or consumed.

B. Temporary Event Sales Licenses. The city may issue event sales licenses which authorize a holder of a retail "on-sale" intoxicating liquor license issued by the city or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city or instrumentality thereof having independent policy-making and appropriating authority and located within the city. The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the premises, and may dispense intoxicating liquor only to persons attending the

event. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

### SECTION 3. LICENSING

#### 6-3.01 Licensing Procedure

- A. Application. Application forms for a license to sell intoxicating liquor, non-intoxicating liquor or wine in the form prescribed by the Minnesota Commissioner of Public Safety may be obtained from the city clerk. In addition to the form prescribed by the Minnesota Commissioner of Public Safety, the city council may require such additional information as deemed necessary or helpful in passing on the application.
- B. Financial Responsibility. Requirements. No retail license to sell intoxicating liquor, non-intoxicating liquor, non-intoxicating malt liquor or wine may be issued or renewed unless the applicant has filed with the city clerk the proof of financial responsibility required by Minnesota Statutes, 340A.409.
- C. Investigation of Applicant. An investigation of the applicant's background and financial status shall be conducted. The city council shall have the authority to charge an investigative fee equal to the actual cost to the city of such investigation but not to exceed \$500 if the investigation is conducted within the state or the actual cost not to exceed \$10,000 if the investigation is required outside the state. No license may be issued or renewed if the results of the investigation show to the satisfaction of the city council, that issuance or renewal would not be in the public interest.

#### 6-3.02 Renewal

- A. Sixty-day Requirement. Application for the renewal of an existing license shall be made at least 60 days prior to the date of the expiration of the license and shall be made on forms provided by the city in such abbreviated form as the city council may approve. If, in the judgment of the city council, good and sufficient cause is shown by any applicant for his/her failure to file for a renewal within the time provided, the city council may, if the other provision of this ordinance are complied with, grant the application.

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- B. Statement of Compliance. At the earliest practicable time after application is made for the issuance or renewal of a license to sell intoxicating liquor, non-intoxicating malt liquor or wine within the city, the applicant shall file with the city clerk a statement reflecting compliance with the applicable liquor and food gross receipt requirements of this chapter.

## 6-3.03

Eligibility Minimum RequirementsA. Persons Ineligible for a License.

1. No license shall be granted or renewed to any person made ineligible for such a license by state law.
2. No license shall be granted or renewed to a partnership or corporation which does not have a managing partner or a manager who is eligible to hold a license pursuant to the provisions of this chapter.
3. No license shall be granted or renewed to a person who is the spouse of a person ineligible for a license under this section, or who, in the judgment of the city council, is not the real party in interest or beneficial owner of the business operated, or to be operated, under the license.
4. No license shall be granted or renewed to a corporation without full disclosure of the stockholders of the corporation and their percentage of ownership. If there are more than ten stockholders, only those owning more than ten percent of the outstanding common stock shall be listed.
5. No license shall be issued to an applicant who refuses to serve alcoholic beverages to any person because of race, color or national origin and no applicant shall discriminate in the selection of its membership on the basis of race, color or national origin.
6. No license shall be granted or renewed to a person to whom a license may not be granted or renewed under the provisions of Minnesota Statutes, Section 340A.402.

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7. No license shall be issued if the city council determines issuance would not be in the interest of the public.

B. Places Ineligible for License

1. No license shall be granted for any premises where a licensee has been convicted of a violation of this chapter or where any license has been revoked for cause until one year has elapsed after such conviction or revocation.
2. No license shall be granted for premises within 300 feet of any elementary or secondary school or within 300 feet of any church.
3. No more than one (1) off-sale intoxicating liquor license may be directly or indirectly issued to any one person or for any one place in the city as provided by Minnesota Statute Section 340A.412, Subd. 3.
4. No license shall be granted for premises precluded from licensure by Minnesota Statute, Section 340A.412.
5. No license shall be effective beyond the compact and contiguous space specified in the license for which it was granted.
6. No license shall be granted or renewed for operation on any premises owned by the licensee or the licensee's agent on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

6-3.04 License Fees.

- A. Payment of Fees. The city clerk shall not accept an application for license unless the fees are paid and all forms signed. Upon rejection of any application for a license, the amount paid shall be refunded.
- B. Establishment of Fees. The city council shall establish the annual and event license fees for the issuance of licenses for alcoholic beverages. Specific fees are identified in Chapter 5-5.01. Fees for new licenses shall be pro-rated on a quarterly basis.
- C. Refunds. The city shall refund to the licensee or the licensees agent a prorata portion of the annual fee for the unexpired period of the license, computed on a monthly basis, when operation of

## 6-3.04

the licensed business ceases not less than one month before expiration of the license for any of the following reasons:

1. The business ceases to operate due to destruction or damage of the licensed premises by fire or other catastrophe;
2. The licensee's death;
3. The business ceases to be lawful for a reason other than revocation;
4. The licensee ceases to carry on the licensed business under the license; or
5. A change in the legal status of the municipality makes it unlawful for the licensed business to continue.

The application for refund must be made to the city council within 30 days of one or more of these occurrences.

- D. License Extension. In the case of the death of a retail licensee to sell alcoholic beverages, the personal representative is authorized to continue operation of the business for not more than 90 days after the death of the licensee without applying for a new license.
- E. Term of Expiration of Licenses. The term of all licenses issued under this chapter shall be from January 1 through December 31.

## 6-3.05

License Conditions.

- A. The license shall be posted in a conspicuous place in the licensed premises at all times.
- B. Every licensee is responsible for employee conduct in the licensed establishment and any sale of alcoholic beverage by any employee authorized to sell alcoholic beverages in the premise is the act of the licensee. (Minnesota Statutes 340A.415).
- C. No licensee shall knowingly permit the licensed premises or any room in those premises or any adjoining building directly or indirectly under his/her control

to be used as a resort for prostitution.

- D. Any police officer, building inspector, fire marshal or any properly designated agent or employee of the city shall have the unqualified right to enter, inspect and search the premises of the licensee during business hours without a warrant. If a violation exists, the appropriate action shall be taken in accordance with Minnesota Statutes, Chapter 340A.415.
- E. For cause, the business records of the licensee, including federal and state income tax returns, shall be available for inspection by a duly authorized representative of the city council at all reasonable times.

## 6-3.06

City Council Discretion

- A. Granting or Refusing of License. All facts set out in the applications shall be investigated. After such investigation, the council shall grant or deny the license in its discretion. Each license granted shall be issued to the applicant only and shall not be transferable to another holder unless in accordance with Section 6-7.01. Each license shall be issued only for the compact and contiguous premises described in the application. No license may be transferred to another place without the approval of the city council.
- B. Revocation or Suspension of License.
  - 1. Hearing Notice. Revocation or suspension of a license by the city council shall be preceded by public hearing conducted in accordance with Minnesota Statutes Section 14.57 to 14.70. The city council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least 10 days prior to the hearing, include notice of the time and place of the hearing, and state the nature of the charges against the licensee.
  - 2. Grounds for Revocation or Suspension of License. The council may suspend or revoke any license for the sale of intoxicating or 3.2 percent malt liquor for any of the following reasons:
    - a. False or misleading statements made on a license application for renewal, or failure to abide by the commitments, promises or representations made to the city council.



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- b. Violation of any special conditions under which the license was granted, including, but not limited to, the timely payment of real estate taxes, and all other charges.
- c. Violation of any Federal, State, or local law regulating the sale of intoxicating liquor, 3.2 percent malt liquor, or controlled substance.
- d. Creation of a nuisance on the premises or in the surrounding area.
- e. That the licensee suffered or permitted illegal acts upon the licensed premises or on property owned or controlled by the licensee adjacent to the licensed premises, unrelated to the sale of intoxicating liquor or 3.2 percent malt liquor.
- f. That the licensee had knowledge of illegal acts upon or attributable to the licensed premises, but failed to report the same to the police.
- g. Expiration or cancellation of any required insurance, or failure to notify the city within a reasonable time of changes in the term of the insurance or the carriers.
- h. Failure of an establishment granted a license to exhibit satisfactory progress toward completion of construction within 6 months from its issuance, or failure of an establishment to operate for a period of 6 months. A hearing shall be held to determine what progress has been made toward opening or reopening the establishment and, if satisfactory progress is not demonstrated, the council may revoke the license.

**3. Presumptive Civil Penalties.**

- a. Purpose. The purpose of this section is to establish a standard by which the city council determines the length of license suspensions and the propriety of revocations, and shall apply to all premises licensed under this chapter. These penalties are presumed to be appropriate for every case; however, the council may deviate in an individual case where the council finds that there exist substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee's efforts in combination with the state or city to prevent the sale of alcohol to minors. When deviating from these standards, the council will

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provide written findings that support the penalty selected.

- b. Presumptive Penalties for Violations. The minimum penalties for convictions or violations must be presumed as follows (unless specified, numbers below indicate consecutive days' suspension):

Type of Violation	Appearance			
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>
1. Commission of a felony related to the licensed activity	Revocation	NA	NA	NA
2. Sale of alcoholic beverages while license is under suspension	Revocation	NA	NA	NA
3. Sale of alcoholic beverages to under-age person	\$500	6 days	18 days	Revocation
4. Sale of alcoholic beverages to obviously intoxicated person	\$500	6 days	18 days	Revocation
5. After hours sale of alcoholic beverages	\$500	6 days	18 days	Revocation
6. After hours display or consumption of alcoholic beverages	\$500	6 days	18 days	Revocation
7. Refusal to allow city inspectors or police admissions to inspect premises	\$500	15 days	Revocation	NA
8. Illegal gambling on premises	\$500	6 days	18 days	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages	\$500	6 days	18 days	Revocation

<i>Type of Violation</i>	<i>1<sup>st</sup></i>	<i>2<sup>nd</sup></i>	<i>3<sup>rd</sup></i>	<i>4<sup>th</sup></i>
Sale of intoxicating liquor where only license is for 3.2 percent malt liquor	Revocation	NA	NA	NA

The council may impose a 3 day suspension for failure to pay the required fine on the first appearance.

- a. Multiple Violations. At a licensee's first appearance before the council, the court must act upon all of the violations that have been alleged in the notice sent to the licensee. The council in that case must consider the presumptive penalty for each violation under the first appearance column in subsection b. above. The occurrence of multiple violations is grounds for deviation from the presumed penalties in the council's discretion.
- b. Subsequent Violations. Violations occurring after the notice of hearing has been mailed, but prior to the hearing, must be treated as a separate violation and dealt with as a second appearance before the council, unless the city administrator and licensee agree in writing to add the violation to the first appearance. The same procedure applies to a second, third or fourth appearance before the council.
- c. Subsequent Appearances. Upon a second, third or fourth appearance before the council by the same licensee, the council must impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, the council may consider the amount of time elapsed between appearances as a basis for deviating from the presumptive penalty imposed by this section.
- d. Computation of Appearances. After the first appearance, a subsequent appearance by the same licensee will be determined as follows:

## 6-3.06

- i. If the first appearance was within three (3) years of the current violation, the current violation will be treated as a second appearance.
  - ii. If a licensee has appeared before the council on two (2) previous occasions, and the current violation occurred within five (5) years of the first appearance, the current violation will be treated as a third appearance.
  - iii. If a licensee has appeared before the council on three (3) previous occasions, and the current violation occurred within seven (7) years of the first appearance, the current violation will be treated as a fourth appearance.
  - iv. Any appearance not covered by subsections i, ii, or iii above will be treated as a first appearance.
- e. Other Penalties. Nothing in this section shall restrict or limit the authority of the council to suspend up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00) for each violation, to impose conditions, or impose any combination of the foregoing sanctions, or take any other action in accordance with law; provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in this chapter.

## 6-3.07

Transfers.

- A. A license shall be transferred in accordance with provisions of Minnesota Statutes Section 340A.412 and as provided herein. A license shall not be transferable without the approval of the city council.
- B. The city clerk shall furnish to each applicant for the transfer of a liquor license suitable applications which will require such background and financial investigation and disclosure as to permit the city council to determine if that proposed transfer is in the public interest.

- C. An investigation of the transferee applicant's background and financial status will be conducted as stipulated in Sections 6-2.01, Section C of this code itself or contract with the Bureau of Criminal Apprehension to do so. The city council shall have the authority to charge an investigative fee equal to the actual cost to the city of such investigation but not to exceed \$500 if the investigation is conducted within the state or the actual cost not to exceed \$10,000 if the investigation is required outside the state. No license may be transferred if the results of the investigation show to the satisfaction of the city council that transfer would not be in the public interest.
- D. Application for transfer shall be made in writing to the city clerk and, shall be accompanied by certified check or money order in the amount of \$100.00 payable to the city which amount is fixed as the transfer fee.

SECTION 4 SALES

6-4.01 Hours and Days of Sale. All hours and days of sale of alcoholic beverages and hours and days of display and consumption in bottle clubs shall be governed by Minesota Statutes 340A.504.

SECTION 5 ENTERTAINMENT

6-5.01 Permitted Entertainment. Any premises lawfully holding a license for the sale of alcoholic beverages is authorized, when carried on in conformity with law, to provide dancing and entertainment either by phonograph, automatic piano, orchestra, band, or any other musical instrument, singing by group participation or by an individual, or other similar amusement.

- Off-sale 3.2 percent malt liquor licensees and have malt liquor sales of less than \$50,000 for the preceding year;
- On-sale wine licenses with wine sales of less than \$25,000 for the preceding year;
- Holders of temporary wine licenses.

Minn. Stat. §§ 340A.409, subd.1; 340A.509.

These insurance requirements are minimum requirements. State law authorizes cities to adopt higher limits and most cities have. Also, even though state law exempts some licensees from the insurance requirement, cities may still require them to carry insurance.

## 2. Youth restrictions

Minn. Stat. § 340A.503.

State law prohibits a person under 21-years-of-age from consuming, purchasing, or possessing alcoholic beverages on the licensed premises; or entering a liquor establishment for the purpose of purchasing, being served, or delivered any alcoholic beverage.

Minn. Stat. §§ 340A.412, subd.10; 340A.503, subd.4.

No person under 18-years-of-age may serve or sell intoxicating liquor in a retail intoxicating liquor establishment, but may otherwise work in such establishments.

Minn. Stat. § 340A.503, subd. 4(b).

Cities may not adopt an ordinance that prohibits a person 18-, 19-, or 20-years-old from entering a licensed establishment to perform work for the establishment, including serving alcoholic beverages.

## E. Renewal of liquor licenses

*Tamarac Inn v. City of Long Lake*, 310 N.W.2d 474 (Minn. 1981).

Minn. Stat. § 340A.402

The law entitles people who invest substantial resources in facilities for operating an on-sale liquor establishment to reasonable expectation of continuing to receive the benefits of the license. Although no constitutional property right exists in owning a liquor license, a city cannot arbitrarily and capriciously refuse to renew a license. The statutes allow non-renewal for conviction of state law or local ordinances.

*Arbuckle's Bar and Grill, Inc. v. City of St. Paul*, CX-98-185 (Minn. App. July 14, 1998).

A city can refuse to accept a license renewal application if it is incomplete and not accompanied with all required fees, insurance policies, and certificates.

Minn. Stat. § 340A.412, subd. 8

Under the law, liquor licenses last for a period of one year. All liquor licenses a city issues, except those in First Class cities, must expire on the same date.

## F. Revocation and suspension

Minn. Stat. § 340A.415

The Intoxicating Liquor Act authorizes revocation or suspension for violation of any statute or ordinance relating to the sale of intoxicating liquor.

Minn. Stat. §§ 340A.409, subd. 1; 340A.415.

*Metro Bar & Grill v. City of St. Paul*, C6-00-1156 (Minn. App. May 1, 2001).

*C. L. Hinze, Inc. v. City of St. Paul*, No. C8-98-2535 (Minn. App. Aug. 8, 1996).

A council may either suspend, for a period not to exceed 60 days, or revoke a liquor license. This includes on-sale and off-sale liquor licenses and wine licenses. In some cases, the law requires mandatory revocation for failure to conform to specific parts of the liquor or beer laws. In order to revoke or suspend a license or permit, the council must find that the license holder failed to comply with an applicable statute, regulation, or ordinance relating to intoxicating liquor. A city has broad discretion to revoke a liquor license if it articulates written reasons for its decisions that were supported by findings and evidence in the record that the holder failed to comply with an applicable statute, regulation, or ordinance relating to intoxicating liquor.

Minn. Stat. §§ 340A.415; 14.57-.69.

*Gar-Dar, Inc. v. City of Minneapolis*, C5-97-715 (Minn. App. Oct. 28, 1997).

There are due process requirements that must be met before a license is revoked. The city must provide a hearing to the license or permit holder in accordance with the Administrative Procedures Act for contested cases. The council should consult an attorney when it is considering a liquor license revocation or suspension.

If, as a result of the hearing, the council feels a revocation or suspension is in order, the council should adopt a resolution revoking the license or permit as of a specified date. The resolution does not need to restate the charges.

For a further discussion on the general issue of denying--not renewing, suspending, or revoking a license--see Chapter 13.

The 3.2% malt liquor law does not require a hearing on the issue of revocation or suspension. To avoid legal questions, beer license revocation proceedings should include a hearing held by the council after adequate notice to the licensee. The notice should state the time and place of the hearing, and advise the licensee of the nature of the charges or the grounds upon which the city is seeking the revocation.

## II. Municipal liquor

Minn. Stat. § 340A.601-.604

Any Minnesota city with a population of 10,000 or less, except those that have been incorporated for less than two years, may own and operate a retail dispensary with off-sale liquor, on-sale liquor, or both. A recently incorporated city may be able to establish a municipal liquor store in less than two years after incorporating if it was an urban town or major part of an urban town. Subsequent changes in population do not affect the ability of a city to operate a liquor store.

MMBA can be reached at (612) 572-0222 or (800) 848-4912, ext. 3925. Their website address is [www.municipalbev.com](http://www.municipalbev.com)

The Minnesota Municipal Beverage Association provides helpful information to municipalities operating municipal liquor stores. Contact the MMBA for additional information about municipal liquor store operations.

Minn. Stat. § 340A.601,  
subd. 5

Once a city establishes a municipal store, all private intoxicating liquor licensing in the city must cease, unless the city has opted for split liquor or has annexed or consolidated with an area and a private liquor license holder was located in the area. After the voters approve a split liquor system, cities may issue on-sale licenses to hotels, clubs, and restaurants.

## **A. City v. private liquor stores**

State law allows municipal liquor stores in Minnesota for the primary purpose of regulating and controlling liquor traffic. Because of this, the question of private versus city ownership of liquor stores should deal with regulatory considerations rather than with the potential profits to the city. Debates concerning the merits of municipal and private liquor operation deal with the following issues:

### **1. Proponents of private liquor licensing believe:**

- Cities are frequently more lenient in enforcing liquor regulations in their own stores than in private stores because of their interest in profits;
- City operation is another type of government ownership of business; and,
- Municipal liquor stores reduce the number of liquor outlets, eliminate some otherwise profitable businesses, reduce private employment, cut down on the number of private taxpayers, and reduce state and county taxes.

### **2. Proponents of city operation believe:**

- Municipal operation eases the job of controlling liquor sales because it reduces the number of outlets or stores since municipal liquor store managers are less motivated by monetary considerations when establishing operating policies, management policies are the council's responsibility, and the voters can exercise a greater influence over policies governing the sale of alcoholic beverages in the community;
- Municipal stores enable all taxpayers to enjoy the profits of the liquor industry through reductions in taxes and completion of public projects without a heavy burden of city debt; and,
- State laws recognize that local officials are best able to decide what type of liquor control is best in the community.
- Municipal liquor stores should observe regulations, encourage moderation, prevent sales to intoxicated people and minors, and generally observe a standard of operation that is above criticism.



## B. Establishing a municipal dispensary

Minn. Stat. § 340A.601,  
subc.

Unless the city has voted to remain dry, the council of any city of less than 10,000 population may, by ordinance, establish liquor dispensaries. If no private liquor licenses are in force in the city, the council may do this at any time. If private licenses are in force, the city must publish a notice of the council's intention to begin selling intoxicating beverages. This notice must be in the legal newspaper at least one year prior to the date the council proposes to begin such sales.

When the city is shifting from private liquor sales to municipal sales, the most appropriate time to begin is when the outstanding private licenses expire. The decision to open a municipal store is probably not in itself sufficient legal justification for revoking a private license. The revocation of a private license is always difficult.

*Arens v. Village of Rogers*,  
240 Minn. 386, 61 N.W.2d  
508 (1953).

Because a license to sell intoxicating liquor is only a special permit, the fact that private dealers have had licenses to operate in the past does not give them vested rights to continue business in the future, nor does it give them cause for complaint when a municipal store results in the loss of their business.

Out of fairness and to minimize the difficulties involved in the transition from private to municipal sales, most councils have made good faith efforts to purchase the stock and equipment of former licensees. However, purchasing duplicate or otherwise unneeded personal property from former business owners may involve an unconstitutional use of public funds for a private purpose.

The statutes do not provide any definite method of financing the acquisition of a municipal liquor store building, fixtures, equipment, and stock. Because the operation of the dispensary is a proper local function, money for this purpose may come from the general fund or through any general long-term or short-term borrowing procedure.

*State of Ohio v. Helvering*,  
292 U.S. 360, 54 S. Ct. 725  
(1934).

A municipal liquor store must comply with all state statutes regulating the hours and manner of sale, and with all applicable regulations of the liquor control division. The city may impose more stringent regulations if they do not conflict with state laws. Although exempt from the state personal property tax, municipal liquor stores are not exempt from state or national excise taxes, including the annual federal occupational tax on retail liquor dealers.

## CITY OF LAUDERDALE

### MEMORANDUM

TO: Mayor and Council Members  
FROM: Kevin Walsh, Deputy Clerk  
SUBJECT: Housing Resource Center  
DATE: October 14, 2003

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#### **PURPOSE**

The City of Lauderdale, recognizing the need to proactively encourage housing and property maintenance and improvements has developed a proposal to partner with the Greater Metropolitan Housing Corporation. This non-profit organization provides residents with financial and technical assistance in updating and remodeling their homes, completing final inspections before payments are made, training for home ownership, helping with foreclosure prevention, and more. In addition this program is intended to assist in assuring that:

- Low and moderate-income residents have the opportunity to effectively deal with aging and substandard housing.
- Lauderdale housing and neighborhoods can be preserved.

#### **BACKGROUND**

Almost every city government is dealing with housing concerns. Rising home values in the metro area have pushed the median price past \$200,000. The median price—the point at which half of the homes sell for more and half for less—reached \$201,500, an increase of \$6,600, in just a month over May's \$194,900. The Greater Metropolitan Housing Corporation (GHMC) is a one stop, Resource Center for housing information and loan assistance. The GHMC was created in 1970 with the primary purpose to improve the availability and quality of affordable housing for low and moderate-income families and individuals. Some of the communities currently using the GHMC assistance include Arden Hills, Mounds View, North St. Paul, Roseville, Shoreview, and St. Anthony Village. GHMC objectives in the metro area are to: assist home owners with flexible financing tools to complete home improvement projects, assist owners through complex construction, and to reduce the number of substandard housing units.

## **COSTS**

The cost to the City of Lauderdale is based on the number and age of houses in the community. According to the GHMC the total cost would be \$3000/year.

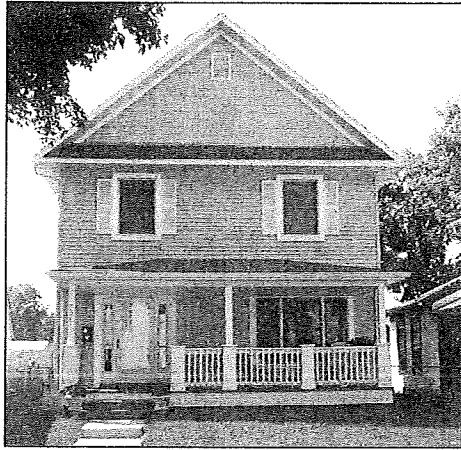
On September 9, 2003 the Ramsey County Redevelopment Authority Board adopted a levy of \$805,800 for suburban communities in 2004—Lauderdale included. The three thousand dollar cost of the resource center may come from this HRA suburban tax levy as the City Council has discretion on how these funds are spent within the requirements outlined in the statutes.

## **NEXT STEPS**

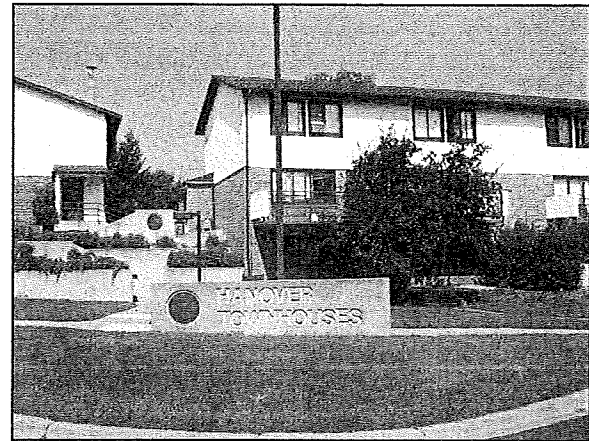
The City of Lauderdale could use the HRA suburban tax levy and budget for the GHMC in 2004.

If need be, a staff member from the Housing Resource Center could come to a meeting and give a presentation to the Council.

*Program Highlights and Statistics 1971-2001 Continued...*



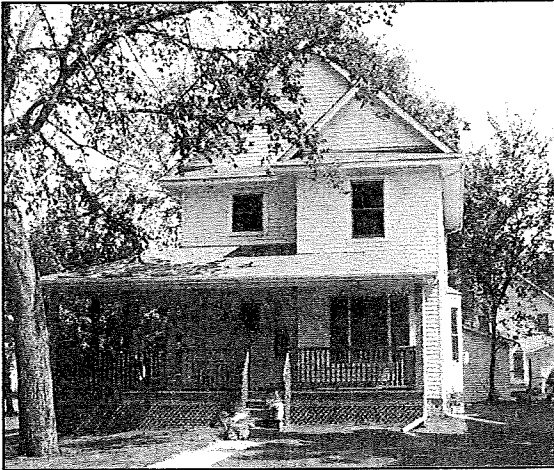
GMHC Single Family Home:  
608 Jefferson St. NE, Minneapolis



Hanover Townhomes, St. Paul  
~Sponsored by Community Housing Development Corporation  
GMHC provided \$55,000 in predevelopment loans for this 96 unit project.

YEAR	SINGLE FAMILY UNITS	DEVELOPMENT COST	PRE-DEVELOPMENT LOAN UNITS	DEVELOPMENT COST	TOTAL UNITS	TOTAL DEVELOPMENT COST
1971-1980	439	\$21,950,000	2,613	\$77,141,000	3,052	\$99,091,000
1981	18	\$1,170,000	207	\$9,611,261	225	\$10,781,261
1982	29	\$1,885,000	647	\$29,451,787	676	\$31,336,787
1983	16	\$1,040,000	565	\$27,348,000	581	\$28,388,000
1984	20	\$1,300,000	712	\$47,227,634	732	\$48,527,634
1985	5	\$325,000	93	\$4,668,000	98	\$4,993,000
1986	10	\$650,000	540	\$26,674,708	550	\$27,324,708
1987	13	\$845,000	196	\$11,594,145	209	\$12,439,145
1988	15	\$1,125,000	1,513	\$39,452,707	1,528	\$40,577,707
1989	27	\$2,025,000	169	\$10,316,008	196	\$12,341,008
1990	14	\$1,050,000	1,053	\$38,833,092	1,067	\$39,883,092
1991	13	\$1,010,980	512	\$33,493,214	525	\$34,504,194
1992	19	\$1,539,913	336	\$27,884,793	355	\$29,424,706
1993	61	\$4,295,000	503	\$33,952,977	564	\$38,247,977
1994	93	\$8,530,000	592	\$39,722,885	685	\$48,252,885
1995	65	\$6,775,000	572	\$27,329,669	637	\$34,104,669
1996	52	\$5,940,000	203	\$14,911,415	255	\$20,851,415
1997	51	\$6,120,000	485	\$32,808,662	536	\$38,928,662
1998	46	\$5,750,000	352	\$43,327,288	398	\$49,077,288
1999	39	\$5,655,000	1,046	\$86,970,737	1,085	\$92,625,737
2000	54	\$8,100,000	737	\$60,852,987	791	\$68,952,987
2001	35	\$5,425,000	645	\$44,909,319	680	\$50,334,319
<b>Total:</b>	<b>1,134</b>	<b>\$92,505,893</b>	<b>14,291</b>	<b>\$768,482,288</b>	<b>15,425</b>	<b>\$860,988,181</b>
<b>In Process Funded</b>	<b>67</b>	<b>\$10,385,000</b>	<b>3,167</b>	<b>\$287,635,078</b>	<b>3,234</b>	<b>\$298,020,078</b>
<b>TOTAL:</b>	<b>1,201</b>	<b>\$102,890,893</b>	<b>17,458</b>	<b>\$1,056,117,366</b>	<b>18,659</b>	<b>\$1,159,008,259</b>

*Single Family and  
Multi-family Predevelopment Revolving Loan Fund  
~Program Highlights and Statistics~  
1971-2001*



GMHC Single Family Home:  
2605 17<sup>th</sup> Avenue South, Minneapolis



Shingle Creek Commons –  
CommonBond Communities

Sponsored by CommonBond Communities, this 75 unit, mixed income senior housing project is underway at 47<sup>th</sup> and Humboldt Avenue North, Minneapolis. GMHC provided \$120,000 in predevelopment loan funds for this project.

Type of Housing	Number of Units	Development Cost
Family	8,314	\$600,497,482
Senior	3,808	\$235,962,602
SRO	1,426	\$81,261,606
Special Needs	916	\$61,960,657
Preservation of Subsidy	<u>4,195</u>	<u>\$179,325,912</u>
	18,659	\$1,159,008,259
Charter Schools	Number of Children	Development Cost
New Visions Charter School	225	\$4,570,000
Minnesota Transitions Charter School	<u>110</u>	<u>\$480,000</u>
	335	\$5,050,000
<b>Total Units and Development Cost</b>	<b>18,659</b>	<b>\$1,164,058,259</b>

*Homeownership Reinvestment Program*  
**HousingResource Centers™**  
*Northeast~Northwest~Southside~NorthMetro~*

The HousingResource Center is GMHC's newest program which was created to provide comprehensive free housing services to all residents of Minneapolis, while also improving the community and its housing stock. The HousingResource Center provides numerous services, including individual, high quality, complete assistance through the purchase, financing, refinancing or construction/renovation process. The first Center was opened in Northeast Minneapolis at 909 Main Street in 1995. Because of its success, Hennepin County asked that we open another center providing services to the communities of Brooklyn Center, Crystal, New Hope and Robbinsdale. As a result, we opened the Northwest Center at 44<sup>th</sup> and Penn Avenues North in Minneapolis. In 1999, in response to requests from Minneapolis city officials, a Southside Center was opened at 3800 Longfellow Avenue. Upon request from the City of Roseville, as of April 1, 2000 the HousingResource Center -Northeast services were available to their residents. In 2002, residents of Columbia Heights will also be able to use these services.

At the request of the I-35W Corridor Coalition, a new NorthMetro HousingResource Center was created and during 2001, began serving the communities of Arden Hills, Circle Pines, Mounds View, New Brighton, Roseville and Shoreview. The NorthMetro office also serves Coon Rapids, and in 2002 will serve the community of North St. Paul.

*Since opening in July of 1995, GMHC's HousingResource Centers provided 20,151 services to 15,129 clients.*

*During 2001:*

**The HousingResource Centers™ provided 6,984 free services to 3,755 people.**

During 2001, GMHC received funding support from the various cities and counties to cover one-third of the cost of operating the HousingResource Centers. GMHC also administers a few of the neighborhood NRP Programs, for which we receive a small fee.

**Summary of Activity-HousingResource Centers**  
 Northeast (7/17/95-12/31/01), Northwest (2/10/98 - 12/31/01)  
 & Southside (4/1/99 - 12/31/01)

Type of Assistance:	Clients Served:	Services Provided:
Home Buyers Information	608	1,253
Refinance/Satisfactions/Subordination	131	271
Construction Consultations	1,915	4,408
Energy Assistance	136	302
Mortgage Foreclosure Prevention	33	156
Home Improvement Information	2,032	3,749
Rental/Emergency Housing Issues	551	551
Other	168	612
New Loans/Grant Applications	815	6,865
Loans/Grants Closed	595	1,984

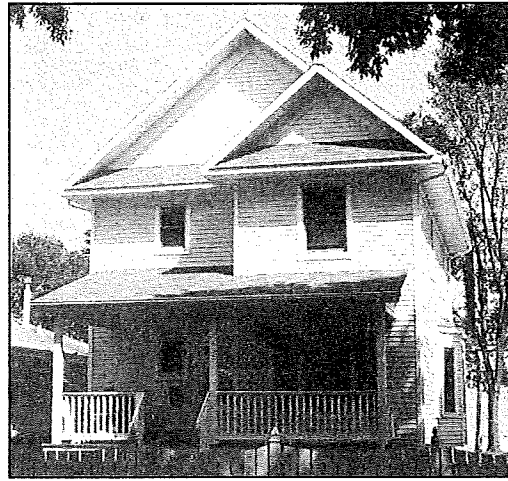
<b>Total to Date:</b>	<b>6,984</b>	<b>20,151</b>
<b>Total Served 2001:</b>	<b>3,755</b>	<b>15,129</b>



HousingResource Center-Northwest

## *Single Family Homeownership Program*

GMHC, in cooperation with public agencies, neighborhoods, etc., builds and/or renovates single family homes in the inner-city of Minneapolis. The homes are sold to persons of low and moderate income, the majority of which are first time homebuyers. Financing tools are available to make these homes affordable. This program provides among other things: homeownership opportunities for individuals often previously left out of the ownership marketplace, stability and increased property values to neighborhoods, additional tax revenue for the city and county, and jobs during construction.



GMHC Single Family Home:  
455 Madison St. NE, Minneapolis

### *During 2001:*

GMHC had 102 single family homes in process (87 new – 15 rehab) at a development cost of \$15,810,000. Thirty-five were completed and sold, 34 under construction and 33 either in neighborhood review, plan drawings or out for construction bids. Forty-three percent of the buyers were African American, 11% Latino, 18% Asian, 18% Caucasian, 10% other, and 70% were first time homebuyers.

***Since inception,  
GMHC has  
constructed or  
renovated 1,201  
homes with a total  
development cost of  
over \$102,890,893.***

### *During the Past Five Years:*

GMHC completed and sold 225 homes, with 67 in process, for a total of 292 homes, at a development cost of \$41,435,000. GMHC builds the homes “on spec” (prior to having a buyer), hires the contractors, provides construction management, finances the construction, as well as the marketing and selling. Over 49% of the buyers were African American, 12% Asian, 16% Latino, 20% Caucasian, 3% other, and 81% were first-time homebuyers.

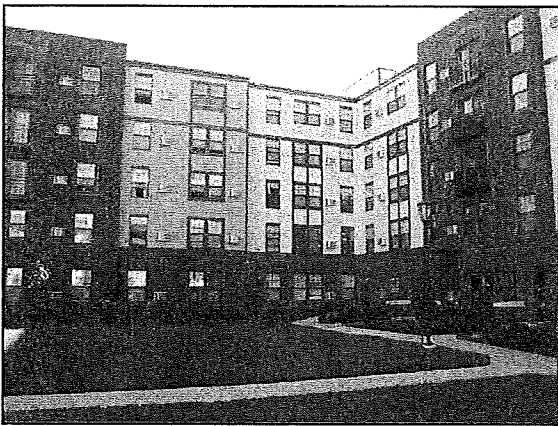
# Programs~

## *Multi-family Predevelopment Revolving Loan Fund Program*

***Since inception, GMHC has provided loan commitments of \$26,276,922 for the development of 17,458 units of affordable housing with a development cost of over \$1,056,117,366.***

GMHC provides technical assistance and high risk predevelopment (seed) loans to organizations to assist in the development of quality affordable housing. These loans cover expenses such as architectural fees, surveys, environmental and soil testing, land and building costs, consultants, etc., as well as bridge loans. GMHC also administers the funding during the building and/or predevelopment phase.

A large variety of housing is funded under this program including multifamily rental, homeownership, co-op housing, elderly housing, transitional housing and housing for special needs (for the disabled, persons with AIDS, chemical dependencies, mental illness, frail elderly, women and family shelters, etc.). We have also provided this funding for the development of charter schools, as well as commercial developments that enhance inner-city neighborhoods.



Central Community Housing Trust sponsored East Village, which provides 180 units of quality housing. GMHC provided \$500,000 in predevelopment loan funds for this project.

### *During the past five years:*

GMHC made loan commitments of \$12,994,068 to develop 4,091 units of affordable housing, 3,265 which have started construction or renovation.

### *During 2001:*

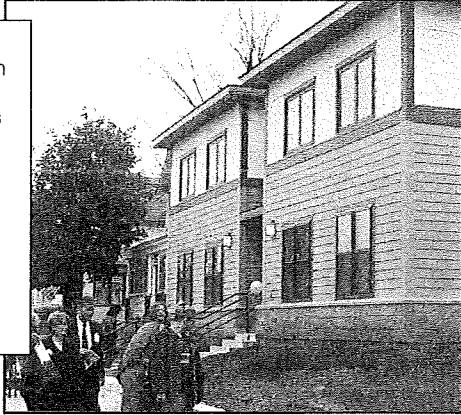
- 645 units of housing for low and moderate income persons went under construction or renovation, with a total development cost of \$44,909,319. GMHC provided \$1,355,150 high-risk front-end loans to these projects.
- GMHC approved \$5,411,215 in *new* loan commitments for the development of 1,405 units with a development cost of \$147,402,035.
- Another 3,167 units are in some phase of development with GMHC loan commitments of \$6,855,128, with a development cost of \$287,635,078.





Greater Metropolitan Housing Corporation  
 15 South Fifth Street, Suite 710  
 Minneapolis, Minnesota 55402  
 Phone: 612-339-0601 Fax: 612-339-0608 www.gmhctc.org

The Joseph Selvaggio Initiative was dedicated in 2001, giving neighbors and community members the opportunity to tour some of the units. This multi-family project provides 30 new affordable housing units, for which GMHC provided \$120,000 in predevelopment loans.



Sojourner Project provides shelter to battered women and their children and celebrated a groundbreaking in 2001 for their new site in Minnetonka. GMHC provided \$30,000 in predevelopment loans for this project.

## Mission Statement

To preserve, improve and increase affordable housing for low and moderate income individuals and families, as well as assist communities with housing revitalization by:

- ◆ Providing financial and technical assistance to neighborhood and other nonprofit housing corporations, and small housing developers;
- ◆ Constructing and selling single family detached housing for homeownership;
- ◆ Through our HousingResource Centers™, providing a comprehensive effort to strengthen vulnerable communities; and
- ◆ Proposing and carrying out demonstration projects.

## Purpose and History

The Greater Metropolitan Housing Corporation (GMHC), a business sponsored nonprofit corporation, was created in 1970 with its primary purpose to improve the availability and quality of affordable housing for low and moderate income families and individuals in the greater Minneapolis metropolitan area. GMHC achieves its mission through three main programs: Predevelopment Revolving Loan Fund; Single Family Homeownership Program; and Homeownership Reinvestment Program (HousingResource Centers™.)

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