1. Regular Meeting Call to Order

2. Additions or Deletions to the Agenda

3. Announcements by Chair –

4. Approval of Minutes for December 30th, 2019 Pages 1-2


6. Discussion and recommendation to City Council on Ordinance 2020-01, Zoning Classification Designation. Pages 4-9

7. Discussion and recommendation to City Council on Ordinance 2019-06 adding Tiny Homes Subdivision to the City Ordinance, Pages 10-12

8. Review and discussion on Temporary off-site Sign Ordinance
   • Copy of December 30th, 2019 planning commission agenda item, Pages 13-21
   • January 27th, 2020 planning commission agenda item. Pages 22-85

9. Review and consider recommending to City Council to call for a public hearing on Ordinance or Fee Schedule adoption ‘in lieu of land dedication for cash payments on PUDs’ Pages 86-104

10. To request that the Walker City Council consider approval to have staff start the annexation process and the zoning designation for the PID # 38-357-0004; land owned by the City of Walker. Also to request that the Walker City Council consider approval of the land to be annexed in with the zoning classification of PUBLIC; no public hearing needed. Pages 105-115

11. Consider application for Planning Commission open seat. Page 116


This agenda is not exclusive. Other business may be discussed as deemed necessary.
WALKER PLANNING COMMISSION
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
December 30, 2019
6:00 p.m. 701 Elm Avenue Walker Fire Hall Meeting Room

1. **Call to Order** 6:00 p.m. by Chair Wilkening
   **Roll Call**-Members Present: Susan Ostlund, Gary Wilkening, Mary Beth Hansen
   **Absent:** Randy Carlson, Seth Lief
   **Staff:** Pamela Smith       **Public:** Theresa Bilben, Patience Anderson, Ed Aletto, Ron Geiser

2. **Additions or Deletions to the Agenda.**
   Wilkening announces since we are missing two members of our planning commission that we will precede with the public hearings only. No action on the public hearings.

3. **Announcements by Chair.**
   None.

4. **M/S Hansen/Ostlund to recommend approval of Minutes for November 25th, 2019**
   Motion passed (3-0)

   Smith reviewed the permits received for November noting that one of the permits was withdrawn and shown in the notation of building permits.

6. **6:00 p.m. Public Hearing; to hear public comment on Ordinance 2020-01, a Zoning Classification designation**
   Public Hearing opened at 6:01 pm
   Wilkening reviewed with the public this pertains to City property that was recently annexed into the City Limits and we need to do a zoning classification for that property. He turns over the meeting to the public for questions, comments or concerns.
   Aletto questioned if it was always the City’s intention to develop that piece?
   Wilkening stated that it was always the intention to bring it into City Limits. He added that in the past there was a discussion about turning it into sewer ponds and that is not true and the furthest from what the City would intend it for.
   Wilkening explains to the public the zoning classification of Rural Residential is roughly the same land use ordinance as what the County currently has.
   Geiser questioned if anyone has gone on the property to see what it looks like?
   Wilkening stated that not recently he has not.
   Geiser stated there is only one access point on the Southeast corner.
   Wilkening reminded the public that because this is in City limits we do have to designate a zone for this parcel. He adds that we are not planning roads or access points only designating a zone.
   The public questioned if there was a timeline of development.
Wilkening stated there is no timeline; comparing it to when Ah-Gwah-Ching came into the City limits.
Geiser stated this is a stepping stone to get all the way to the lake, adding that Gary knew what he was talking about.
Hansen questioned what he was talking about.
Wilkening clarified; annexation.
Ostlund stated that is a different conversation than what the public hearing is actually for; a zoning designation.
A member from the public questioned how this could affect her property.
Wilkening stated that if there was a development that went in there she could potentially have neighbors adding that the typography in that area is difficult and there would not be one on top of the other.
Aletto questioned if there would ever be City water and sewer there.
Wilkening stated that he does not foresee that happening and that is part of why they are suggesting the zoning classification of Rural Residential because it allows for private well and septic.
Geiser questioned why they wanted to annex it into the City at this point.
Wilkening stated that it is part of the process and if a development occurs.
Geiser challenged that response stating that was not the main reason. He argued that he might as well admit it and that the City wants to annex all the way to the lake. He stated that we need to talk to Pine River and find out what it cost them to annex in Pine River Township. He threatened that the residents and Shingobee would fight the City on this.
Wilkening remind the public that this is not a meeting on annexation it is a zoning designation public hearing.
Geiser added that they would take the City to court.
Public Hearing closed at 6:14 pm

7. 6:05 p.m. Public Hearing; to hear public comment on Ordinance 2019-06 adding Tiny Homes Subdivision to the City Ordinance.
Public Hearing open at 6:14 pm
Wilkening stated that this Ordinance would allow an increase in density within certain developments to account for homes that are less than 599 sq. ft.
Bilben stated that she sold one of those homes this year and it was a very cute home.
The Board brought up affordable housing and first time home buyers as well as retirees’ that these would be appropriate housing for their income.
Public Hearing closed at 6:17 pm

8. M/S Ostlund/Hansen to approve to table the remainder of the agenda until January 27th, 2020 at 6:00 for the next scheduled Planning Commission meeting.
Motion passed (3-0)

9. Wilkening adjourns meeting at 6:18 p.m.
ZONING ADMINISTRATOR REPORT

DECEMBER 2019

PERMITS: The following building permits were issued in DECEMBER:

<table>
<thead>
<tr>
<th>Permit #</th>
<th>Date</th>
<th>Owner</th>
<th>Address</th>
<th>Work</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>BP-2019-60</td>
<td>12/17/2019</td>
<td>JED SHAW</td>
<td>106 8TH STREET</td>
<td>REPAIR STAIRS</td>
<td>$1,000</td>
</tr>
<tr>
<td>BP-2019-61</td>
<td>12/19/2019</td>
<td>FIRST NAT’L BANK</td>
<td>600 MINNESOTA AVE</td>
<td>A/C ROOFTOP</td>
<td>$12,345</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Permits to Date</th>
<th>Commercial</th>
<th>Residential</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>$1,131,785 (18)</td>
<td>$728,751 (43)</td>
<td>$1,847,191 (61)</td>
</tr>
<tr>
<td>2018</td>
<td>$760,282 (27)</td>
<td>$1,257,578 (34)</td>
<td>$2,017,860 (61)</td>
</tr>
<tr>
<td>2017</td>
<td>$556,125 (13)</td>
<td>$1,333,498 (44)</td>
<td>$1,892,623 (57)</td>
</tr>
<tr>
<td>2016</td>
<td>$631,997 (15)</td>
<td>$176,115 (25)</td>
<td>$808,112 (40)</td>
</tr>
<tr>
<td>2015</td>
<td>$1,018,145 (12)</td>
<td>$1,226,852 (39)</td>
<td>$2,244,997 (51)</td>
</tr>
<tr>
<td>2014</td>
<td>$252,782 (18)</td>
<td>$407,975 (23)</td>
<td>$660,757 (41)</td>
</tr>
<tr>
<td>2013</td>
<td>$673,581 (17)</td>
<td>$361,824 (27)</td>
<td>$1,035,405 (44)</td>
</tr>
</tbody>
</table>

Sign Permits: DECEMBER
NONE.

Temporary Signs: DECEMBER
NONE

Fence Permits: DECEMBER
NONE

COUNCIL ACTION:
1/6/2020
ECONOMIC DEVELOPMENT/LIQUOR STORE/AIRPORT/LIBRARY –
Councilmember Hansen
1. M/S Hansen/Moore to approve of Walker Planning Commission/Board of
   Adjustments Meeting Minutes of November 25th, 2019.
   Motion passed (5-0)
Walker Planning Commission Agenda Item

Planning Commission Meeting Date: January 27th, 2020

Agenda Item No. 6 Recommendation to Council for Ordinance 2020-01, a zoning designation.

Public Hearing December 30th, 2019:
Public Hearing opened at 6:01 pm
Wilkening reviewed with the public this pertains to City property that was recently annexed into the City Limits and we need to do a zoning classification for that property. He turns over the meeting to the public for questions, comments or concerns.
Aletto questioned if it was always the City’s intention to develop that piece?
Wilkening stated that it was always the intention to bring it into City Limits. He added that in the past there was a discussion about turning it into sewer ponds and that is not true and the furthest from what the City would intend it for.
Wilkening explains to the public the zoning classification of Rural Residential is roughly the same land use ordinance as what the County currently has.
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Geiser stated there is only one access point on the Southeast corner.
Wilkening reminded the public that because this is in City limits we do have to designate a zone for this parcel. He adds that we are not planning roads or access points only designating a zone.
The public questioned if there was a timeline of development.
Wilkening stated there is no timeline; comparing it to when Ah-Gwah-Ching came into the City limits.
Geiser stated this is a stepping stone to get all the way to the lake, adding that Gary knew what he was talking about.
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Ostlund stated that is a different conversation than what the public hearing is actually for; a zoning designation.
A member from the public questioned how this could affect her property.
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Geiser challenged that response stating that was not the main reason. He argued that he might as well admit it and that the City wants to annex all the way to the lake. He stated
that we need to talk to Pine River and find out what it cost them to annex in Pine River Township. He threatened that the residents and Shingobee would fight the City on this. Wilkening remind the public that this is not a meeting on annexation it is a zoning designation public hearing. Geiser added that they would take the City to court.
Public Hearing closed at 6:14 pm

**Staff Recommendation:**
The proposed zoning designation is located next to and abutting a rural area. Based on the character of the area and existing development trends in close proximity to the parcel of petition as well as its conformance to the 2016 Comprehensive Plan and the criteria in the staff findings that determine initial zoning designation and future land use district changes; staff recommends approval.

**Staff Findings:**
*Criteria for land use categories.* The following criteria shall be used to determine initial zoning classifications and future land use district changes:

1. Preservation of natural sensitive areas.
   *This property is not known at this time as a designated as a natural sensitive area.*

2. Present ownership and development.
   *The present owner of said parcel is the City of Walker. Future development of this parcel is compatible with the proposed zoning designation; Rural Residential (RR). The purpose of this district is to provide low density rural residential development in rural portions of the city, outside the shore land zone and within areas of anticipated municipal growth for which such development is desired and most suitable. The primary use within the rural residential district is single-family residence but may also include agricultural, forestry, and those commercial enterprises intended primarily to serve nearby rural residence low intensity industrial light activities. The proposed zoning designation meets compatibility requirements in that the tract is large enough at >144 acres and that it is surrounded primarily by Shingobee Township parcels to the North, East and West the South abuts both Shingobee Township and City of Walker; City of Walker to the South is zoned as General Commercial.*

   *Property is not classified as shore land.*

4. Topographic characteristics.
   *The characteristic of this parcel is undeveloped property with no unusual features to affect zoning.*

5. Vegetative cover.
   *Property has standard vegetative cover.*
(6) In-water physical characteristics.
   \textit{Not applicable.}

(7) Recreational use of surface water.
   \textit{Not applicable.}

(8) Road and service center accessibility.
   \textit{Property is abutted on the South Side and East Side by Sautbine Rd NW}

(9) Socio-economic development needs of the public.
   \textit{The zoning designation of Rural Residential to this parcel is not contrary to the socio-economic needs of the public.}

(10) Availability of public sewer and water.
    \textit{g. Sewer/Septic on-site systems as permitted by Cass County with design of two systems for the property.}
    \textit{h. On site wells permitted.}

(11) The necessity to preserve and restore certain areas having significant historical or ecological value.
    \textit{The property is not known to have any significant historical or ecological value.}

(12) Conflicts between land uses and impacts of commercial or industrial uses or higher densities on adjacent properties.
    \textit{The zoning designation of Rural Residential is not seen to have any adverse effects on the surrounding properties. Its use is consistent with surrounding properties.}

(13) Alternatives available for desired land use.
    \textit{An alternative location is not an applicable factor given the circumstances.}

(14) Prevention of spot zoning.
    \textit{The parcel is large enough on its own the zoning designation would not create a condition of spot zoning.}

(15) Conformance to the City Land Use Plan.
    \textit{The zoning designation aligns with the 2016 Comprehensive Plan
ORDINANCE 2020-01
ZONING CLASSIFICATION DESIGNATION

WHEREAS, the City Council of the City of Walker, County of Cass, State of Minnesota, has petitioned for a zoning classification designation of the following property,

Legally described as:

The East Half of the Northeast Quarter (E ½ NE ¼) less that part of the Southeast Quarter of the Northeast Quarter (SE ¼ NE ¼) lying southerly of Township Road #19, and the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼), Section (20), Township One Hundred Forty Two (142), Range Thirty One (31), Cass County, Minnesota.

; and

WHEREAS, the property is abutting a rural area; and

WHEREAS, the character of the area and existing development trends are compatible with parcels in close proximity to the parcel of petition as well as conformance to the 2016 Comprehensive Plan; and

WHEREAS, a Public Hearing with due notification was held on Monday December 30th, 2019 at 6:00 pm at the Walker Fire Hall 701 Elm Avenue; and

WHEREAS, the criteria in the staff findings that determine initial zoning classifications and future land use district changes,

Based on the findings that:

(1) This property is not known at this time as a designated natural sensitive area.

(2) The present owner of said parcel is the City of Walker. Future development of this parcel is compatible with the proposed zoning designation: Rural Residential (RR). The purpose of this district is to provide low density rural residential development in rural portions of the city, outside the shore land zone and within areas of anticipated municipal growth for which such development is desired and most suitable. The primary use within the rural residential district is single-family residence but may also include agricultural, forestry, and those commercial enterprises intended primarily to serve nearby rural residence low intensity industrial light activities.

The proposed zoning designation meets compatibility requirements in that the tract is large enough at ±144 acres and that it is surrounded by Shingobee Township to the North, East and West. The Southerly portion of the property abuts both Shingobee Township and City of Walker; City of Walker is zoned as General Commercial.

(3) Property is not classified as shore land.

(4) The characteristic of this parcel is undeveloped property with no unusual features to affect zoning.

(5) Property has standard vegetative cover.

(6) In-water physical characteristics are not applicable.

(7) Recreational use of surface water is not applicable.

Ordinance 2020-01
(8) The property has Road and service center accessibility; abutting Sautbine Rd NW on the South Side and East Side

(9) The zoning designation of Rural Residential to this parcel is not contrary to the socio-economic needs of the public.

(10) Public sewer and water are not required in the Rural Residential District per Walker City Code Section 109-150 Residential Performance Standards, (15) Rural Residential Performance standards:
    g. Sewer/Septic on-site systems as permitted by Cass County with design of two systems for the property.
    h. On site wells permitted.

(11) The property is not known to have any significant historical or ecological value.

(12) The zoning designation of Rural Residential is not seen to have any adverse effects on the surrounding properties. Its use is consistent with surrounding properties.

(13) An alternative location is not an applicable factor given the circumstances.

(14) The parcel is large enough on its own; the zoning designation would not create a condition of spot zoning.

(15) The zoning designation aligns with the 2016 Comprehensive Plan

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Walker, County of Cass, State of Minnesota approves the Walker Planning Commission’s recommendation to classify the above described parcel to Rural Residential

Adopted by the City Council of the City of Walker this __ day of ___________, 2020.

Jed Shaw, Mayor

Terri Bjorklund, City Administrator

Motion:
Second:
Moore:
Hansen:
Senenfelder:
Shaw:
Wilkening:
State of Minnesota } 
County of Cass } ss.
This instrument was acknowledged before me on this_______ day of ___________________,
2020, by Jed Shaw, as Mayor of the City of Walker, and by Terri L. Bjorklund, as City
Administrator for the City of Walker.

____________________________________
My Commission Expires: ________

This instrument drafted by
The City of Walker
P.O. Box 207
Walker MN 56484
218 547-5501

Ordinance 2020-01
Walker Planning Commission Agenda Item

Planning Commission Meeting Date: January 27th, 2020

Agenda Item No. 6 Recommendation to Council for Ordinance 2019-06, adding Tiny Homes Subdivision to the City Ordinance.

Public Hearing December 30th, 2019:
Public Hearing open at 6:14 pm
Wilkening stated that this Ordinance would allow an increase in density within certain developments to account for homes that are less than 599 sq. ft.
Bilben stated that she sold one of those homes this year and it was a very cute home. The Board brought up affordable housing and first time home buyers as well as retirees’ that these would be appropriate housing for their income.
Public Hearing closed at 6:17 pm

120302019 tiny homes
CITY OF WALKER  
CASS COUNTY, MINNESOTA  
ORDINANCE No. 2019-06  

AN ORDINANCE ADDING TINY HOMES SUBDIVISION

The City Council of Walker, Minnesota ordains:

Section 1. PART II-LAND DEVELOPMENT AND LAND USE ORDINANCES; CHAPTER 109-ZONING AND SUBDIVISIONS Chapter 109 ZONING AND SUBDIVISIONS, Article IV. Planned Unit Development, Adding Secs. 109-119

Section 109-119. Tiny Homes Subdivision
Definitions:
Tiny House: A house that is typically one hundred fifty (150) to five hundred ninety-nine (599) square feet. A tiny house on wheels is considered a recreational vehicle and a tiny house on a foundation is considered an accessory dwelling unit (ADU).
Tiny House Subdivision: A subdivision of land which promotes the development of tiny houses one hundred fifty (150) to five hundred ninety-nine (599) as a primary residential dwelling unit.

Tiny House Subdivision Standards
Tiny house subdivisions will consist of individual dwelling structures one hundred fifty (150) to five hundred ninety-nine (599) square feet. The purpose of small lot subdivision is to encourage affordable housing, infill development and sustainable practices. All PUD and subdivision standards shall apply to Tiny Home Subdivisions. Additional standards are required as follows:

a) Tiny House subdivisions may only be approved with the review and approval of a Planned Unit Development (PUD) Conditional Use Process.
b) Tiny house subdivisions can occur in Rural Residential, Traditional Residential, Low Density Residential and Multi-Family Residential zoning districts.
c) The density of a Tiny House Subdivision will be no more than one and one-half (1.5) times the underlying zoning.
d) Small lot subdivisions are not condominiums, multi-family, mobile homes or recreational vehicles. Properties are titled in fee simple.
e) Small lot homes must be structurally independent, with no shared foundations or common walls.
f) Lot size will be relative to accommodate the square footage of the tiny home; minimum lot size to accommodate a 501-599 square foot house is 1,200 square foot lot. Minimum lot size to accommodate a 150-500 square foot house is 1,000 square foot lot.
g) Side setbacks will be 5 feet and rear setbacks are 10 feet
h) Fifty percent (50%) open space is required.
i) Parking density; two on-site parking spaces per lot.
j) Tiny house required to connect to City of Walker Water and Sewer service lines.
k) Tiny house subdivisions must require the formation of a homeowners association.
l) These are private residential homes; not seasonal and not intended for commercial use.
m) Tiny houses must be built to Minnesota Building Code.

Ordinance 2019-06
Section II. This Ordinance becomes effective from and after its passage and publication.

PASSED AND ADOPTED by the City Council of the City of Walker, Minnesota, this _____ day of ________, 2020.

__________________________  ATTEST: __________________________
Jed Shaw, Mayor              Terri Bjorklund, City Administrator

MOTION:                      
SECOND:                      
Hansen:                      
Moore:                       
Senenfelder:                 
Shaw:                        
Wilkening:                   

Ordinance 2019-06
Walker Planning Commission Agenda Item

Planning Commission Meeting Date: December 30th, 2019

Agenda Item No. 10: Review and discussion on Temporary off-site Sign Ordinance.

Information: Proposed Ordinance language for Community Special Event was submitted by Erin Haefele.
The proposed ordinance would regulate the signage through a Community Special Events permit.

- Regulates events on private and public property.
- It would allow for a total of 10 signs per event day.
- It allows for signs to be displayed two days prior to the event and one day after the event.
- The fee structure for the Community event is $25 or if it requires limited city services it is $75.
- It would allow waivers for time periods to be granted.
- Requires detailed parking plan

Staff Review:
1. Can the City regulate events on private property? The City can regulate events held on City property as well as on City Right of Ways. Minnesota Avenue and 10th Street is also regulated by MNDot Right of Ways.
2. Is 10 signs too many? Three events on one day could accumulate up to 30 signs in the City limits.
3. Does the duration of temporary off site signage seem too long? Should it be 24 hours prior and signs removed immediately following said event?
4. What is the fee structure based on? We require a $25 fee for the current application for temporary signs. What are limited city services? The application for something on this scale would probably entail a number of hours of staff time amongst compliance checking to make sure that the size, number and placement of the signs are within the allotment stated in the application.
5. Allowing waivers for time periods could be perceived as arbitrary. Allowing some events to place signs for longer than others could indicate discrimination.
6. Does the City want a detailed parking plan on private property?
7. The proposed ordinance does not reference the placement/location of where the temporary off-site signs would be placed.

Remember best practices cities should adopt sign ordinances based on time, place and manner concerns, not content. Refrain from favoring commercial speech over noncommercial speech. General limitations on the number and size of signs have withstood constitutional challenges and they further governmental interests in protecting property values, preventing distractions for drivers and avoiding clutter.

Attachment:
Proposed Community Special Event Ordinance

12302019 Proposed community special event
COMMUNITY SPECIAL EVENT ORDINANCE PURPOSE & SCOPE: To allow for community oriented special events by permit. To allow for special event signage. To establish fees and application for special events. To find approval by the City of Walker.

COMMUNITY SPECIAL EVENT: A special event or activity that is open to the general public. A special event is educational, cultural or recreational in function. This may include festivals, concerts, parades, public performance, public gathering to be held on a public street, right-of-way or public property. Events in which the public is invited on private property which may affect public safety, health or welfare by their impact on surrounding public or private property may be deemed a community event. A private, invitation-only event such as weddings or private parties would not constitute a community event and would not require a permit unless it would affect public safety, health or welfare. Such events shall be coordinated through the City of Walker.

(A) A community special event; as defined in (see definition above) shall be limited to a maximum of 4 off-site promotional signs and 6 directional signs. These signs are considered temporary signs, and a temporary sign permit is required before installation. A temporary sign permit may be obtained from the city administrator or designee. The application and permit fees, as determined by council, are included in the fee schedule available from the City of Walker. On-site community activity signage to be used only for the duration of the event.

(1) The event must be open to the public and be non-discriminatory. Free admission is not a requirement.

(2) Special Event promotional signage shall not contain any commercial advertising. If an organization is sponsoring the event, the title of the organization may be used on signage.

(3) Promotional signs may not exceed six square feet in area and three feet in height.

(4) No more than three colors shall be included on such sign(s), including black and white.

(5) Such signs shall not be illuminated.

(6) Promotional signs shall not be displayed more than 48 hours immediately preceding the event and shall be removed no later than 24 hours following the conclusion of the event.

(7) Directional signs may not exceed four square feet in area and two feet in height.

(8) Directional signs shall be installed no more than 24 hours immediately preceding the event and shall be removed within 24 hours following the conclusion of the event.

(9) No more than three colors shall be included on such signs(s), including black and white.

(10) Such signs shall not be illuminated.

(11) Special Event signs are only allowed for events to be held within the city limits of Walker.
Additional Notes about Community Special Events.

In an effort to simplify the application procedures for community event organizers, the City of Walker has prepared this guide. The Walker City staff is available to answer your questions to ensure a successful event.

Please note that the event organizer is responsible for fees and wages for all City services and staff as determined by the City Council. The event organizer may also be charged a use fee for city facilities and an additional fee for damaged to city property. All current park applications, street closure permits and fees will apply.

Application. Every individual or organization who intends to hold a Community Special Event must submit an Application to the City of Walker at least 60 days prior to the scheduled event, unless exempt by law. Events that are held on City property that intend to serve alcohol must submit their initial application 90 days in advance. Waivers to required time periods may be granted. Food, beverage and alcohol vendors mush adhere to all current Minnesota State Laws and Permits.

Criteria for denial of a Community Special Event Permit

- The conduct of the event will substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- The conduct of the event or the number of events scheduled during the time period will require the diversion of so great a number of other City employees, such as Police, Parks or Streets & Utilities staff, that adequate staff would not be available to complete City assignments.
- The concentration of persons, equipment, vehicles or animals at the event or assembly sites will substantially interfere with adequate fire and police protection of, or emergency medical service to, areas near such sites.
- The conduct of the event may result in violence to persons or property, causing serious harm to the public.
- The date or location of the event is in direct conflict with an existing event.
- Any proposed use of public property, right-of-way, or facilities will unreasonably interfere with the normal use of the property, right-of-way, or facility by the City or the general public.
- The event is a violation of city ordinance and/or state laws.
- The event will not have a net positive benefit or impact on the Walker community.
Revocation of permit

- A Community Special Event Permit may be revoked before or during an event at the discretion of the Walker Police when the health or safety of the public is threatened by an emergency, disorder or other unforeseen condition that has arisen.
- If a Community Special Event Permit is revoked, the event must be canceled and activities must be terminated immediately.
- No refunds of fees paid prior to the event will be refunded. Events will be responsible for paying fees on any services incurred.

Appeal Process

- All appeals must be presented in writing to the City of Walker.

Enforcement of other laws

- Nothing contained in this document shall prohibit the authority of any officer to arrest a person engaged in any act or activity granted under this policy, if the conduct of such person violates the laws of the state, provision of this Code, or ordinances of the City, or unreasonably obstructs the public streets and sidewalks of the City, or if such person engaged in acts that cause or would tend to cause a breach of the peace.
- The granting of any Community Special Event Permit required by this policy shall not eliminate the requirements for any business license or any other permits which may be prescribed by any other federal, state or local statutes, ordinances, rules or regulations; or compliance with any other applicable federal, state or local statutes ordinances, rules or regulations.

Resources and Fees
If the event organizer requests City services and/or equipment or if the Park Board has determined that City services are necessary to hold a safe and successful event in the City of Walker, the event organizer will be invoiced for those services at the conclusion of the event.

Application Fee Structure for Community Special Events

<table>
<thead>
<tr>
<th>Event</th>
<th>Definition</th>
<th>2020 Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1</td>
<td>Any event that does not require city services nor warrants a meeting with the City Council but requires a permit to comply with the city code or ordinances.</td>
<td>$25</td>
</tr>
<tr>
<td>Tier 2</td>
<td>Any event that requires limited city services.</td>
<td>$75</td>
</tr>
</tbody>
</table>

Insurance, Indemnity & Permission

Event organizers will be responsible for any and all damages caused by or related to the event. If the event is held on any property not owned by the City of Walker or the sponsoring organization, the organization must submit proof of permission for use of the property.

The sponsoring organization, permit holder or host establishment may be required to obtain a comprehensive general liability insurance policy. It may also be waived when it is necessary to comply with any federal, state or local law, statute, regulation or constitutional provision.

Events Held in City of Walker Park

Events to be held in the City of Walker Park may be required to additionally apply and pay additional application and use fees as set by the Park Advisory Board.

First Aid and Emergency Services

The event organizer is responsible for making arrangements for first aid and emergency services to be provided on-site.

Security and Safety Services

Events should have a plan in case of extreme weather or other threats. Events are encouraged to share these plans with both Police and Fire departments.

Traffic Control and Road Closures
Use of City streets, sidewalks and parking lots for events must follow all current traffic control and road closure ordinances.

- The event organizer is responsible for maintaining a minimum 12-foot wide fire and emergency lane through all areas.
- If roads are to be closed or access to certain residents or businesses is restricted, the event organizer is responsible for preparing, printing and distributing a notification letter to all affected residents and businesses 15 to 30 days prior to the event.

Parking

Event planners are required to provide a detailed parking plan that will accommodate the number of guests expected. Events using private lots must obtain and provide the City with written permission from the owner of the lot. If a shuttle will be used, the application must indicate the route and pick-up/drop-off points.

- Approval for vehicles to park or drive on sidewalks, bike paths or City-owned property will be included in the permit process.
- If parking in an area not lined for parking, the Event must ensure there is adequate access for safety and fire vehicular access.

Signage

The use of signage for events is regulated by the sign ordinance. Event applications must include location and description of all off-site signage.

- Events shall be entitled to a maximum of four off-site promotional signs and 6 directional signs.
- On-site event signage is to be used for the duration of the event and during permitted setup and tear-down times.
- Off-site signage shall not contain any commercial advertising. If an organization is sponsoring the event, the name only (no logos) of the organization may be used on promotional signage.
- Off-site promotional and directional signs may not exceed six square feet in area and three feet in height.
- Off-site promotional signs shall not be displayed more than 48 hours immediately preceding the event and shall be removed no later than 24 hours following the conclusion of the event.
- Directional signs shall be installed no more than 24 hours immediately preceding the event and shall be removed within 24 hours following the conclusion of the event.
- Directional signs may not exceed four square feet in area and two feet in height.
- No more than three colors shall be included on off-site signs(s), including black and white.
- Off-site signs shall not be illuminated.
• Prohibited sign locations include any public right of way; any location where the view of approaching and intersecting traffic would be obstructed; any private property sites without prior written authorization granted by the property owner.
• Special Event signs are only allowed for events to be held within the city limits of Walker.
• All City ordinances and state laws apply.

Walker City Community Special Event Application

Event Name:
Date(s) of Event:
Time of Event:
Location of Event:
Event Website:

Organization presenting event:
Please note the mailing address below is that of the:
The organization

The contact's residence

Event Contact:

Contact's Address:

Email
Phone Number

Is this a new event in Walker?

Brief Event Description- including purpose, target audience, and description:

Day/Dates/Times of Set Up:

Days/Dates/Times of Tear Down:

Days/Dates/Times/Location of Rain Event:

If you charge an admission or participation fee, please list fees.

If this is a charitable/fundraising event please list the benefiting non-profit organization(s) and the percentage of the net proceeds they will receive.

Anticipated number of spectators?
Anticipated number of participants?

Will you request Walker Police for event Security?

Describe your internal security procedures (e.g. are you hiring a private security firm?):

Will you request Walker Police for traffic control?

Will there be a command post at your event?
If yes, please describe the location.

Will you have an on-site provider of primary first aid?
If yes, please list the on-site provider?

Please briefly describe your medical emergency plan:

Please briefly describe your weather evacuation plan:

Please describe your traffic, parking, and overflow plan:

Will you request that any City of Walker street(s) be closed?
If Yes, please list street(s), dates, and times:

Will your event require Barricades?
Will your event require "No Parking" Signs from the City of Walker?
Please describe your signage plans below, both directional and promotional:
Describe your clean-up plans during and after event:
If renting dumpsters, please provide the following information (Company, Drop-off/Pick Up Date, Contact Name, Contact Phone, Locations and # of units):
If renting portable restrooms, please provide the following information (Company, Drop-off/Pick Up Date, Contact Name, Contact Phone, Locations and # of units):
Will you use Generators (Electrical Permit may be required based on size)?
If Yes, please specify size:
Will other temporary structures be used (e.g. bleachers, stages, etc.)?
Will you have music or other amplified sound?
If Yes, please list times and type of music (e.g. DJ, Live Band, etc.):
Will food be sold at your event?
If Yes, please describe type of food and names/contact info of vendors.
Will alcohol be sold or served at your event?
If Yes, please list name/contact info for alcohol vendors.
Will you using the City of Walker facility/park for your event?
If Yes, please provide map set up. If the event is in a park, will you have any animals at the event? If yes, please describe.
If the event is in a park, will you sell any items or services? If yes, please describe.
Please attach your Certificate of Insurance (naming City of Walker as additionally insured) below:
Please attach your resident notification letter (if needed):
Walker Planning Commission Agenda Item

Planning Commission Meeting Date: January 27th, 2019

Agenda Item No. 8: Review Temporary off-site Sign Ordinance

Staff Consideration: The City has an application for Ordinance Text Amendment when the public initiates an Ordinance change. The cost is $395.00 plus expenses incurred by the City; i.e. public hearing notification and summary publication of Ordinance change, publication fees for Municode (Ordinance Book and online) implementation, etc.

Does the Planning Commission feel that the Ordinance would benefit all residents and costs associated with the text amendment would be justified at the expense of City taxpayers?

City Council Discussion: Citizens Presentation
12/2/2019:
Kristen Holly questioned the Council on the enforcement of ordinances. She pointed out that some ordinances are enforced while others are not. She questioned the Council on why they are choosing this specific ordinance of temporary signage to enforce. Holly added that the lack of enforcement of certain ordinances sets a precedent. She stated that if they are changing this ordinance they need to clearly inform the public on the proposed change. She questioned on how many complaints were received by the City about the Walker Bay Live signs and who was making the complaints. She pointed out that through some brief surveys of their own they questioned the attendees of Walker Bay Live on how they found their event and the top three answers were; word of mouth, Facebook and everyone said the signs. She stressed that their 2x4 signs they use are extremely effective and affordable. Holly added that their event size nearly doubled after they changed their signs from the ‘real estate’ size signed to the chalkboard signs. Holly stated that the likelihood of having 17 signs on a corner on a Thursday night to advertise an event is in reality very slim. She stated that she has not seen any letters to the editor or negative Facebook posts regarding their Walker Bay Live signs. She questioned the Council that maybe their citizens appreciate the signage because it reminds them of the event. She adds that they need to take a step back and look at the signs and what the function of them may be. She stated that Walker is a tourist based economy that doesn’t have a lot of extra funding to advertise; effective, affordable signage is critical to support our events. Walker Bay Live would like to respectively request that the Walker Planning Commission take another look at the temporary sign ordinance. Holly stated that they hope that they look at other tourist and event based cities to find examples that work. She added that they might want to look at allowing larger signs or a 24 hour option. Holly stated that they also do not think that the website to advertise events will not work as an effective way of communication; its expensive and redundant, we have a chamber website that does that already.

01272020 Temp/off-site Sign Review
12/2/2019:
1. M/S Hansen/Wilkening to approve of Walker Planning Commission/Board of Adjustments to recommend to enforce the current Temporary Sign Ordinance and to promote a webpage that has happenings and events within the City of Walker.

Motion failed (1-4)
Hansen stated the Kristen has valid points adding that she feels that our temporary sign ordinance is not very accommodating to our events and we need to reevaluate that. Moore stated that she thinks it should be defined better so people understand it and clean it up and to send it back to the planning commission. Moore questioned if there was a list that the City keeps of whom is complaining. Bjorklund clarified that complaints on any issue are private information. We have an ordinance we need to enforce. Staff was unclear on how to apply the ordinance without better definition. Staff is looking at a clearer way to administer the ordinance.
Wilkening reviewed the history of the ordinance and stated that many years ago the corner of holiday had cardboard signage that littered the highway. The planning commission then crafted an off-site sign ordinance as well as on-site sign ordinance. Wilkening stated that this was brought up in June or July but was decided to get through the season allowing the off-site signage around town; however, it was also noted at the meeting that as a goal they needed to come up with a solution by January. Wilkening stated that we have an ordinance that doesn’t allow for off-site signs and now they are appearing. He stressed that we can regulate the sign but can’t regulate the content. He explained that everyone in town could do the same thing and put up off-site signage; Bensons, Wilkening Fireplace, Village, etc. or people from surrounding towns when they have an event could put up a sign. He added that our on-site sign ordinance is prolific. Wilkening stated that most of the discussion at the planning commission meeting was between the newer members; Mary Beth, Seth and Sue. Wilkening noted some of the ideas of City of Walker happenings as a separate webpage and permanent signs with QR codes and website address to visit for area events.
Senenfelder suggested creating a special event ordinance. Wilkening reiterated that they cannot regulate the content of the sign only the size, placement and duration.
Senenfelder stated that he does not want to see two or three signs on every corner.
Moore stated that she feels that it is important for directional signage for people coming through town that aren’t familiar with the area. Hansen stated that times are changing and we are a drive through town and there are events that are once a week, month, every several months, etc. She stressed we have to look at what is happening now and prepare for the future. Hansen also noted that she doesn’t think that we should get a webpage to advertise events when the chamber already spends thousands of dollars on a website that already does that. Moore suggested looking into doing a Facebook page for the City of Walker.
Bjorklund suggested giving planning commission some kind of direction on what the council is looking for.
Shaw clarified duration, placement, size and suggested that violations could potentially have their permit revoked or not able to renew and if they could be granted a certain number of signs per season.
M/S Hansen/Moore to approve to send the Temporary Sign Ordinance back to the Planning Commission to review; duration, size and placement.

**Motion passed (5-0)**

**Information:**
According to the League of Minnesota Cities Information Memo in regards to Sign Ordinances and the First Amendment:

When a local government’s ordinance is content-neutral, courts review it with a much more relaxed standard, upholding regulations that meet the criteria below (often referred to as reasonable time, place, and manner restrictions). These ordinances:

- Do not reference the content of the sign.
- Are narrowly tailored to serve a significant governmental interest (rather than compelling interest).
- Leave open ample alternative channels for communication of the information.

To help avoid challenges when adopting sign ordinances, cities should:

- Not regulate based on content.
- Not favor commercial speech over noncommercial speech.
- Further substantial government interests, such as traffic safety or aesthetics, without regulating more than necessary to accomplish their objectives.
- Leave ample alternative channels for communication, such as limiting the size of signs but still allowing signs.

**Commercial speech vs. Noncommercial speech**

Courts treat commercial speech differently than noncommercial speech and do not afford it the same level of protection. Courts have defined commercial speech as speech that proposes a commercial transaction. Commercial speech enjoys some First Amendment protection but not as much protection as noncommercial speech.

Understanding commercial speech versus noncommercial speech can get confusing. Commercial speech is initiated by a person or company who engages in commerce, or is selling something; targets commercial audiences or audiences that are actual or potential consumers; and communicates a message commercial in nature, such as advertisements. Noncommercial speech, on the other hand, includes messages that do not promote commercial products or services, such as a message that has ideological or political content.
Council request: Review Temporary Off-Site signage; duration, size and placement

Current (relevant) City of Walker Code:
Temporary sign means any display device, constructed of cloth, canvas, light fabric, cardboard, wall board or other light materials, with or without frames, intended to be displayed for a limited period of time only.
Temporary signage includes, but is not limited to, balloons, banners, flags, pennants, streamers, wind animated devices, inflatable statuary, rigid portable signs, portable reader boards and searchlights. Other types of display devices will require the approval of the zoning administrator.

(e) Permit not required. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this section or any other law or ordinance regulating the same.
(1) The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or site changes involving sign painting elsewhere than directly on a building.
(2) Signs two square feet or less in size.
(3) One sign per property in residential districts not to exceed three square feet in size.
(4) Notwithstanding any other provision of this section, all signs of any size containing noncommercial speech may be posted in any number from August 1 in a (state) general election year until ten days following the (state) general election and 13 weeks prior to any special election until ten days following the special election.
(5) Official signs and notices placed by public officers or public agencies in accordance with federal, state or local law.
(6) City public facility signs are allowed without a permit, not to exceed the standards for general commercial signage in any zoning district.
(7) One sign shall be allowed per street frontage when a property is offered for sale or lease, provided that:
   a. The sign does not exceed six square feet in size in a residential zone;
   b. The sign does not exceed 18 square feet in size and six feet in height; and
   c. The sign is removed within 30 days of the completion of construction, sale or rental.
(8) On-premises banner signs are allowed for special events such as grand openings and promotions. No more than one wall banner sign may be displayed per side of property visible from a publicly traveled street or alley, or in the case of multi-tenant properties, no more than one wall banner sign per business. Freestanding banner signs are limited to one per lot. Banner signs may not exceed 24 square feet in area per side. Off-premises banner signs require a permit from the zoning administrator.
(9) Window signs mounted on the interior of structures.
(10) Freestanding or portable signs for garage sales not more than four square feet in size, on private property for not more than three days. Property owner is responsible for removal of signs.
(11) Internal directional signs and internal identification signs, as specified in this section. Up to three signs of each type, not to exceed four square feet in sign area and six feet in sign height are allowed without a permit.

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(12) Static signs or banners adorning fences in permitted outdoor recreational facilities, provided they are placed so as to only be viewed internal to the play field area and are not placed so as to orient a commercial message toward an adjacent right-of-way.
(13) A-frame signs on private property. Allowed without a permit in CBD, TC, GC, WC, I, P, and PR zoning districts. Not more than one A-frame sign is allowed per principal structure except that one sign is allowed per tenant within a principal building having two or more tenants each with an exclusive exterior entrance. The sign shall only be displayed when the business is open to the public. The A-frame sign must be no more than four feet in height and two feet in width, shall not be illuminated and shall not contain moving parts or have balloons, streamers, pennants or similar items attached thereto.
(f) Prohibited signs. The following signs shall not be allowed within the city:
(1) Any sign painted, attached or in any other manner affixed to trees, rocks or similar natural surfaces, or attached to public utility poles, bridges, towers or similar public structures;
(2) Signs on accessory structures and fences, except as allowed by this section;
(3) A sign or sign structure that is declared to be illegal, unsafe, deteriorated, abandoned or obsolete;
(4) A sign on private property placed without permission of the owner;
(5) Exposed neon lights or signs, not intended to add to the overall architecture theme of the site;
(6) Balloon signs;
(7) Directional signs larger than eight square feet;
(8) Flashing signs;
(9) Roof signs;
(10) Rotating signs;
(11) Scrolling signs, except where allowed in this chapter;
(12) Shimmering signs;
(13) Street furniture signs;
(14) Vehicle signs not normally used in the day-to-day operations of a business parked in such a way to draw attention or people from a public place or street, or private off-site property, and dynamic displays on any moving, motorized or non-motorized vehicle, except as may be allowed in a parade which has been officially approved by a political subdivision;
(15) Permanent off-premises signs; and
(16) Billboards, including all dynamic billboard type displays.

(l) General regulations.
(1) Setbacks. All signs shall observe the setbacks for structures in the zoning district in which the signs are located.
(2) Standards. All signs shall be professionally fabricated.

(1) Temporary signs.
A. A-frame signs on public property or right-of-way. Permitted in the CBD, TC, GC, WC, I, P, and PR zoning districts provided that:

01272020 Temp/off-site Sign Review
1. Not more than one A-frame sign is permitted per principal structure except that one sign is permitted per tenant within a principal building having two or more tenants each with an exclusive exterior entrance;
2. The sign shall only be displayed when the business is open to the public;
3. The sign must not block or impede pedestrian traffic and at least four feet of clear sidewalk width must remain, and vision of vehicular traffic may not be obstructed;
4. The A-frame sign must be located within two feet of the front wall or window of the building, unless completely located on private property;
5. The A-frame sign must be no more than four feet in height and two feet in width, and eight square feet;
6. A-frame signs shall not be illuminated;
7. A-frame signs shall not contain moving parts or have balloons, streamers, pennants or similar items attached thereto;
8. A portable sign permit is required prior to the display of an A-frame sign, and such permit is nontransferable. Permits are valid for one calendar year beginning January 1 and ending December 31;
9. If the sign is to be located in the public right-of-way, the owner shall sign a statement indemnifying the city of any liability for use of the right-of-way. The owner shall provide a certificate of general liability insurance in an amount acceptable to the city, naming the city as an additional insured for the sign to be located upon the public right-of-way; and
10. A-frame signs in the Minnesota Department of Transportation right-of-way along Minnesota State Highway 371 and Minnesota State Highway 34 shall comply with the regulations of the Minnesota Department of Transportation.

b. Banner signs, off-premises. Permitted in all nonresidential districts.
1. Off-premises banner signs require a permit from the zoning administrator and permission of the property owner. Signs shall not be in place longer than seven consecutive days and not exceed ten occurrences on a parcel in a 12-month period;
2. No more than one wall banner sign may be displayed on a facade visible from a publicly traveled street or alley, or in the case of multi-tenant properties, no more than one wall banner sign per business;
3. Freestanding banner signs are limited to one per lot; and
4. Banner signs may not exceed 24 square feet in area.

Attachments:
Land Use/Text Amendment Form
LMC-Information Memo
Email Correspondence with League
Examples provided by the League
   Hopkins
   Scandia
   Woodbury
   Pine City

01272020 Temp/off-site Sign Review
Land Use Application Form

City of Walker
P.O. Box 207
Walker MN 56484
(218) 547-5501

Date Received: _____________

File# _____________________

Fee Amount: _____________

Check # _____________________

Applicant Name: ___________________________ Phone(_____) ___ - ________

Address: ___________________________ Property ID: ___________

Owner Name: (if different) _______________ Phone: (_____) ___ - ________

Address: ___________________________

Legal Description: (not from tax statement) (Attach Additional Sheets if Necessary)

Request:

_____ Sketch Plan Review ($150 credited to Prelim Plat)
_____ Preliminary Plat < 14 lots ($395 + $50 per lot)
_____ Preliminary Plat - 14 lots + ($3,000 deposit, actual costs invoiced)
_____ Final Plat ($250 + recording fee)
_____ Lot Split Metes & Bounds *($150 + $25 per lot)
_____ Zoning Amendment ($395)
_____ Interim Use Permit ($395 + recording fee)

_____ Conditional Use Permit ($395+ recording fee)
_____ Extension of CUP (10% of original/$50 min)
_____ Rezoning ($395)
_____ Street Vacation ($395)
_____ Variance ($395 + recording fee)
_____ Special Meetings @ Applicant’s request ($500)

Description of Request:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Z:\FORMS\Land Use\Land Use Application Form.doc
Once the City has received a completed application and all fees are paid, the Zoning Administrator will schedule a Public Hearing before the appropriate Board or Commission.

Signature of Applicant

Date

Signature of Applicant

Date

Complete Application Received:

Zoning Administrator

Date
Application for Ordinance Text Amendment
City of Walker
205 Minnesota Avenue West
P.O. Box 207
Walker MN 56484

Phone: 218 547-5501 ~ Fax: 218 547-5513

Name: ___________________________ Phone: ___________________________

Address: _______________________________________________________________

I/We, the undersigned make the following application to the City Council and Planning
Commission of Walker, Minnesota. Applicant has the responsibility of checking all
applicable ordinances pertaining to their application and complying with all ordinance
requirements.

1. Application is hereby made to amend the Zoning Ordinance, Section: _______
   Subd: _______ Item: _______

2. Current Text: Attach as “Exhibit A”.

3. Proposed Text: Attach as “Exhibit B”.

4. Is the text amendment consistent with the City of Walker’s Comprehensive Plan?
   Yes _____ No _______. If “No”, an amendment to the Comprehensive Plan must be
   approved prior to this request.

5. Reason for requesting the text amendment:
   ________________________________________________________________
   ________________________________________________________________

6. Attach additional material submission requirements as indicated by the City.

Applicant Signature ___________________________ Date ________________
APPLICATION FEES AND EXPENSES:

The City of Walker requires all applicants to reimburse the City for any and all costs incurred by the City to review and act upon applications.

The application fee includes administrative costs which are necessary to process the application. The escrow fee will include all charges for staff time by the City Administrator, City Attorney, City Engineer and/or any other staff/consultants needed to process the application.

The City will track all consultant costs associated with the application. If these costs are projected to exceed the money initially deposited to your escrow account, you will be notified in the manner that you have identified below that additional monies are required in order for your application process to continue. If you choose to terminate the application (notice must be in writing), you will be responsible for all costs incurred to that point. If you choose to continue the process you will be billed for the additional monies and an explanation of expenses will be furnished. Remittance of these additional fees will be due within thirty (30) days from the date the invoice is mailed. If payment is not received as required by this agreement, the City may approve a special assessment for which the property owner specifically agrees to be assessed for 100 percent per annum and waives any and all appeals under Minnesota Statutes Section 429.081 as amended. All fees and expenses are due whether the application is approved or denied.

With my signature below, I hereby acknowledge that I have read this agreement in its entirety and understand the terms herein. I agree to pay to the City all costs incurred during the review process as set forth in this Agreement. This includes any and all expenses that exceed the initial Escrow Deposit to be paid within thirty (30) days of billing notification. I further understand that the application process will be terminated if payment is not made and application may be denied for failure to reimburse City for costs. I further understand that the City may approve a special assessment against my property for any unpaid escrows and that I specifically waive any and all appeals under Minnesota Statutes 429.081, as amended.

I wish to be notified of additional costs in the following manner:

☐ e-mail __________________________  ☐ USPS certified mail

☐ fax __________________________

I, the undersigned, hereby apply for the considerations described above and declare that the information and materials submitted In support of this application are in compliance with adopted City policy, and ordinance requirements are complete to the best of my knowledge.

I acknowledge that I have read the statement entitled “Application Fees and Expenses”, as listed above. I understand that this application will be processed in accordance with established City review procedures and Minnesota Statutes Section 15.99, the City will notify the Applicant within fifteen (15) business days from the filing date of any incomplete or additional information necessary to complete the application. Failure on my part to supply all necessary information as requested by the City may be cause for denying this application.

Applicant: __________________________  Date: ___________

Owner: __________________________  Date: ___________
Sign Ordinances and the First Amendment

Learn how to design a sign ordinance for your city that meets the requirements of the First Amendment for protecting various forms of speech.

I. First Amendment principles

The First Amendment protects signs as speech, and, as a result, courts closely review attempts to regulate signs. In 2015, the U.S. Supreme Court decided a seminal case (Reed v. Town of Gilbert) that changed how courts review the validity of sign ordinances. Prior to this decision, courts generally presumed sign ordinances were valid and, in their review, would look to the intent behind the adoption of the ordinance, striking down only those ordinances where the court found evidence that the city “adopted (the sign regulation) to suppress speech with which the government disagreed” (commonly known as content-based).

Since Reed, courts now presume that sign ordinances that restrict speech (either expressly or implicitly) are unconstitutional. As a result, courts look first to the effect of the sign ordinance—whether the ordinance regulates signs differently based on the content or message of the sign—before conducting its analysis of the constitutionality of the ordinance. Based upon the court’s determination, the court will apply one of two standards of review to the challenged ordinance. If the ordinance draws distinctions based on the message communicated by the sign, the court reviews these ordinances more harshly than if the ordinance regulates signs and their placement without regard to content.

A. Content-based

As referenced above, the Reed decision created a two-step analysis to determine if the ordinance restricts speech, commonly referred to as “content-based”:

- Does the ordinance’s actual language refer to the content or the message of the sign?
- If not, then does evidence exist that shows the city adopted the regulation specifically because of disagreement (or agreement) with the message expressed by the sign?
In *Reed*, the Town of Gilbert's sign code required permitting for signs, but then listed out categories or types of signs exempt from permitting, including "political signs," "ideological signs," and "temporary directional signs." The ordinance in *Reed* also placed different physical restrictions on the separate types of signs. The Supreme Court found this ordinance content-based because the regulation "on its face" looked to the message on the proposed sign to determine how the city would regulate it.

As mentioned above, if a court finds the city expressly regulated or intended to regulate a message or content, then the court applies a more rigorous level of review to those ordinances. This heightened level of review is called "strict scrutiny," and the court will only uphold the ordinance if it furthers a compelling government interest and is narrowly tailored. Courts have found few governmental interests represent justifiable "compelling interests." As a result, in practice, few, if any, regulations survive strict scrutiny.

In the alternative, for sign ordinances that do not regulate the message or content of signs (commonly called "content-neutral"), courts apply a lower standard of review to the reasonableness of regulations and generally uphold regulations that further a significant government interest, as long as reasonable alternative channels for communication exist. As a result, courts uphold ordinances considered content-neutral more often than not.

## B. Content-neutral

As stated above, when a local government’s ordinance is content-neutral, courts review it with a much more relaxed standard, upholding regulations that meet the criteria below (often referred to as reasonable time, place, and manner restrictions). These ordinances:

- Do not reference the content of the sign.
- Are narrowly tailored to serve a significant governmental interest (rather than compelling interest).
- Leave open ample alternative channels for communication of the information.

To help avoid challenges when adopting sign ordinances, cities should:

- Not regulate based on content.
- Not favor commercial speech over noncommercial speech.
- Further substantial government interests, such as traffic safety or aesthetics, without regulating more than necessary to accomplish their objectives.
- Leave ample alternative channels for communication, such as limiting the size of signs but still allowing signs.

*Advantage Media, LLC v. City of Eden Prairie*, 456 F.3d 793 (8th Cir. 2006).

C. Commercial speech v. noncommercial speech

Courts treat commercial speech differently than noncommercial speech and do not afford it the same level of protection. Courts have defined commercial speech as speech that proposes a commercial transaction. Commercial speech enjoys some First Amendment protection but not as much protection as noncommercial speech.

Understanding commercial speech versus noncommercial speech can get confusing. Commercial speech is initiated by a person or company who engages in commerce, or is selling something; targets commercial audiences or audiences that are actual or potential consumers; and communicates a message commercial in nature, such as advertisements. Noncommercial speech, on the other hand, includes messages that do not promote commercial products or services, such as a message that has ideological or political content.

II. Drafting a sign ordinance

With the First Amendment concerns surrounding sign regulation, the below guidelines will help cities in drafting ordinances. Keep in mind that signs can pose distinct problems subject to a city’s police power, such as taking up space, obstructing views, distracting motorists, and displacing alternative uses for land, so cities can regulate signs, they just must do so cautiously.

A. Provisions to include

1. Statement of purpose

This section of an ordinance explains the public purpose reason for the sign ordinance and how the city intends to apply the ordinance. The statement of purpose should state clearly that it does not intend to have content-based restrictions or content-based enforcement. Cities find it a best practice for the statement of purpose to delineate the governmental interests spurring the regulations.

2. Substitution clause

Adding a message substitution clause may avoid claims that an ordinance favors commercial signs over noncommercial messages. A substitution clause provides that for every commercial sign allowed, any noncommercial message could be legally substituted. Substitution clauses help protect against allegations of discrimination (based on content) because they always allow a noncommercial message on any sign. Many ordinances inadvertently define signs in terms of advertising and, as a result, may be interpreted as allowing only commercial messages.
RELEVANT LINKS:

A substitution clause may correct these mistakes by providing a catch-all allowance of noncommercial messages notwithstanding other provisions. A sample substitution clause reads as follows:

"Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs."

3. Severability clause

A severability clause provides that if a court finds any provision of the ordinance invalid, the remainder of the ordinance stands on its own. This clause may prevent a flaw in one part of the ordinance from invalidating the entire ordinance.

A sample severability clause reads as follows:

"If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid."

4. Election season pre-emption

A city's sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, which runs from 46 days before the state general primary until 10 days after the state general election. The statute does not define noncommercial sign. One Minnesota case does, however, and states that a "noncommercial opinion sign" is one which “does not advertise products, goods, businesses, or services and which expresses an opinion or other point of view.” Courts consider campaign signs a subset of noncommercial opinion speech. Outside of "election season," including during non-general election years, a city’s local sign ordinance governs. However, as stated before, even if not election season, local sign ordinances should not have the effect of prohibiting opinion speech.

5. Time, place, and manner regulations

Best practices suggest cities should:

- Adopt sign ordinance regulations based on time, place, and manner concerns, not on content.
- Refrain from favoring commercial speech over noncommercial speech.
Examples of content-neutral restrictions include regulations based on size, brightness, zoning district, spacing, and movement.

B. Provisions to avoid

1. Unfettered discretion

Cities should avoid drafting ordinances that provide discretionary approval by the city staff. Ordinances that give staff discretion to grant or deny have the potential to favor some messages or messengers over others, regardless of whether an abuse of that discretion occurred. Sign ordinances should have transparent and objective permit requirements, making the decision to grant or deny ministerial, as opposed to subjective, in nature. So, for example, cities should avoid provisions allowing staff discretion to deny permits, even if the application satisfies all specific ordinance requirements, or provisions that treat signs as conditional or special uses.

2. Exemptions or favoritism

Cities should avoid exempting certain groups or messages, such as church signs or official flags, from permit requirements in the ordinance. Courts construe these types of exemptions as content-based discrimination because a decision is made based on the text, or content, of the sign.

Also, municipalities may want to keep in mind that including specific exemptions in sign ordinances often has the effect of “watering down” the proof that the regulation furthers a substantial government interest. For example, if an ordinance includes a prohibition on temporary signs but allows a long list of exemptions, it suggests the city is not really concerned about temporary signs.

3. Over-defining signs

Cities should avoid drafting ordinances in ways in which noncommercial speech inadvertently gets treated less favorably than commercial speech. For example, some cities have run into trouble by defining a “sign” as “advertising.” A court’s analysis would be as follows:

- The city ordinance defines signs as advertising devices.
- The ordinance allows signs as defined.
- The ordinance, by its definition of signs as advertising, prohibits all other types of signs.

This arguably prohibits noncommercial speech, violating the First Amendment.
C. Include procedural protections

Cities that require permitting should include certain procedural safeguards in their ordinance, such as a:

- Specification of the time within which the city will grant or deny a permit, keeping in mind judicial preference for brevity in the response time.
- Requirement that, if the city denies the permit, the applicant has access to prompt judicial review.

III. Common sign ordinance issues

A. Off-premise advertising (billboards)

Off-premise advertising consists of commercial signs that advertise for a business located somewhere else than at the location where the sign is placed. Large, freestanding billboards create unique problems for land use planning and development precisely because their design intends for them to stand out from their surroundings. Courts have found a legitimate local governmental interest in controlling the size and location of billboards, but not in controlling the sign’s communicative aspects. Indeed, billboards can distract drivers, posing real danger to both motorists and nearby pedestrians and justifying regulation.

In Minnesota, the court has upheld a sign ordinance that completely prohibited off-premise commercial advertising, but, did so cautiously and only because the ordinance did not regulate noncommercial signs. Because of the scrutiny applied in regulating speech, cities should use caution in adopting complete billboard prohibitions and work with their city attorneys.

B. Flags

Courts have recognized that the display of flags can constitute expressive conduct protected under the First Amendment as well. Cities should use caution if regulating flags to avoid favoring some types of flags (particularly the United States flag) over other flags. Use of a substitution clause helps in these instances: if one type of noncommercial flag would be acceptable, any noncommercial flag should be allowed.

C. Yard signs, including political signs

Courts have deemed yard signs constitutionally protected. Best practice suggests avoiding total bans on noncommercial lawn signs in residential areas, and using caution in adopting provisions that may favor some messages over others.
For example, exemptions from sign regulations for real estate signs or construction project signs favor commercial speech over noncommercial speech. However, general limitations on the number and size of signs have withstood constitutional challenges since such limitations have nothing to do with a sign’s message, and they further governmental interests in protecting property values, preventing distractions for drivers, or avoiding clutter.

Again, as stated before, a city’s sign ordinance should contain acknowledgement of the election season pre-emption required by state law. Under this law, municipalities must allow noncommercial signs of any size or number during election season, from 46 days before the state general primary until 10 days after the state general election.

D. Electronic signs

Electronic signs present new challenges, especially with ever-changing technology capable of new levels of brightness, movement, flashing, and potential distraction. Most sign ordinances do not adequately address these issues and how they may impact traffic safety or aesthetics. Courts have upheld regulations on electronic or flashing signs, so long as the regulations are not tied to the content of the signs, serve a substantial governmental interest, and leave open ample alternative channels for communication. For example, courts have found that allowing non-electronic signs, or even operating the electronic sign in a non-flashing mode, represents ample alternatives.

E. Signs adjacent to highways

Minnesota statutes specifically regulate signs adjacent to highways. Minnesota law states, in part, that it is unlawful to paint, print, place, or affix any object within the limits of any state highway; but provides for some specific signage that meets certain Department of Transportation criteria. Furthermore, Minnesota’s Outdoor Advertising Control Act prohibits advertising devices on private land without the consent of the owner or occupant; on public utility poles; on trees or shrubs; and by painting or drawing on rocks or natural features.

IV. Further assistance

Due to the complexity of regulating signs, cities should work with their city attorneys to draft and review such ordinances. City attorneys also can examine the law for possible exceptions to these general rules about sign ordinances and the First Amendment. The League of Minnesota Cities’ Research Department can provide assistance and sample ordinances.
Hello Pamela,

Thank you for submitting a research question to the League.

**Q: Sign Ordinances** I am specifically looking for sample ordinances regulating off-site temporary signage or off-premises temporary signs. I have read the information memo the league has regarding sign ordinances and the first amendment. Would like to see what sample ordinances that you could provide.

The Hopkins sign ordinance is linked in the information memo you reviewed, we see that as a good example because it was challenged in federal court and upheld as constitutional. Here is a link to the ordinance:


City of Woodbury: [https://library.municode.com/mn/woodbury/codes/code_of_ordinances?nodeId=CCCH18.5S1](https://library.municode.com/mn/woodbury/codes/code_of_ordinances?nodeId=CCCH18.5S1).

City of Pine City: [https://pinecity.govoffice.com/vertical/Sites/%7B6C78F918-835C-4B30-A7AF-EAF471BF7B3%7D/uploads/Pine_City_Chapter_10_MUNICIPAL_DEVELOPMENT_ORDINANCE_-_Current_revised_CAV_1-10-19.pdf](https://pinecity.govoffice.com/vertical/Sites/%7B6C78F918-835C-4B30-A7AF-EAF471BF7B3%7D/uploads/Pine_City_Chapter_10_MUNICIPAL_DEVELOPMENT_ORDINANCE_-_Current_revised_CAV_1-10-19.pdf) (Section 10.500.0300, page 95).

Please note that the League has not vetted this sample for quality, legality, or anything else. Ultimately, any resolution that is adopted should be reviewed for legal compliance by the city attorney. The main thing to keep in mind is that any regulation based on the content of the sign, that is, regulation based on the message, is subject to a very high standard by courts and usually struck down.

I hope this is helpful, but please feel free to reach out if I can provide additional assistance. Thank you for contacting the League of Minnesota Cities!

Aisia Davis | Staff Attorney
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www.lmc.org | Facebook | Twitter | Podcast

Please note, this response is intended to convey general information and should not be taken as legal advice or as a substitute for competent legal guidance. Consult your attorney concerning specific legal situations.
Section 570 - Signs

Preamble:

The City Council finds that the lack of a comprehensive, constitutionally sound ordinance regulating signs in the City of Hopkins constitutes an emergency threatening public health, safety and welfare because, among other concerns, (1) signs could be erected without regard to the manner in which the size or location of the sign or signs interferes with traffic sight lines, endangering or distracting drivers and pedestrians alike, thereby causing traffic hazards and, (2) signs could be constructed in a manner or from such materials as are structurally unsound vulnerable to collapse, endangering persons or property in the vicinity of the signs.

The following ordinance is adopted as Section 570 of the Hopkins City Code:

570.01 Findings, purpose and effect.

Subd. 1. Findings. The City Council hereby finds as follows:

a. Exterior signs have a substantial impact on the character and quality of the environment.

b. Signs provide an important medium through which individuals may convey a variety of messages.

c. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

d. The city’s zoning regulations have, since as early as 1966, included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

Subd. 2. Purpose and intent. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this ordinance is to:
Hopkins City Code (Zoning)

570.01 Subd. 2
(Replaced 8-16-05)

a. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.

b. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.

c. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City’s goals of public safety and aesthetics.

d. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

Subd. 3. Effect. A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of this ordinance. The effect of this ordinance, as more specifically set forth herein, is to:

a. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.

b. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.

c. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

d. Provide for the enforcement of the provisions of this sign ordinance.

570.03. Severability.

If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.
570.05. **Definitions.** Subdivision 1. The following words and phrases, when used in this Section 570, shall have the following meanings, unless the context clearly indicates otherwise:

Subd. 2 “**Abandoned sign**” - any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

Subd. 3 “**Awning**” - a roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

Subd. 4 “**Awning sign**” - a building sign or graphic printed on or in some fashion attached directly to the awning material.

Subd. 5 “**Balloon sign**” - a sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

Subd. 6 “**Building sign**” - any sign attached or supported by any Building.

Subd. 7 “**Cabinet sign**” - any wall sign that is not of channel or individually mounted letter construction.

Subd. 8 “**Canopy**” - a roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

Subd. 9 “**Canopy sign**” - any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.
Subd. 10 “Changeable copy sign” - a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

Subd. 11 “Commercial Speech” – speech advertising a business, profession, commodity, service or entertainment.

Subd. 12 “Elevation” - the view of the side, front, or rear of a given structure(s).

Subd. 13 “Elevation area” - the area of all walls that face any lot line.

Subd. 14 “Erect” - activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

Subd. 15 “Flag” - any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Subd. 16 “Flashing sign” - a directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

Subd. 17 “Freestanding sign” - any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Subd. 18 “Grade” - grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

Subd. 19 “Ground sign” - any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

Subd. 20 “Height of sign” - the height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
Subd. 21 “Illuminated sign” - any sign which contains an element designed to emanate artificial light internally or externally.

Subd. 22 “Interior sign” - a sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

Subd. 23 “Legally established nonconforming sign” - any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Subd. 24 “Marquee” - any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

Subd. 25 “Marquee sign” - any building sign painted, mounted, constructed or attached in any manner, on a marquee.

Subd. 26 “Monument sign” - any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

Subd. 27 “Multiple tenant site” - any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.

Subd. 28 “Non-commercial speech” – dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Subd. 29 “Off-premise sign” – a commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.
Subd. 30 “On-premise messages” – identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

Subd. 31 “Owner” – In the case of a lot, the legal owner of the lot as officially recorded by Hennepin County, and including fee owners, contract for deed purchasers and ground lessees. In the case of a sign, the owner of the sign including any lessees.

Subd. 32 “Pole sign” - see Pylon Sign.

Subd. 33 “Portable sign” - any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

Subd. 34 “Porte cochere” - a roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

Subd. 35 “Projecting sign” - any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.

Subd. 36 “Public notices” - official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

Subd. 37 “Public Street Right of Way” - The entire right of way of any public street.

Subd. 38 “Pylon sign” - any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

Subd. 39 “Residential district” - any district zoned for residential uses.

Subd. 40 “Roof” - the exterior surface and it supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the Uniform Building Code.

Subd. 41 “Roof line” - the upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.
Subd. 42 “Roof sign” - any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Subd. 43 “Roof sign, integral” - any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Subd. 44 “Rotating sign” - a sign or portion of a sign which turns about on an axis.

Subd. 45 “Shimmering signs” - a sign which reflects an oscillating sometimes distorted visual image.

Subd. 46 “Sign” – any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Subd. 47 “Sign face” - the surface of the sign upon, against, or through which the message of the sign is exhibited.

Subd. 48 “Sign structure” - any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Subd. 49 “Site” - a lot or combination of contiguous lots which are intended, designated, and/or approved to function as an integrated unit.

Subd. 50 “Stringer” - a line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Subd. 51 “Suspended sign” - any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Subd. 52 “Total site signage” - the maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.
Hopkins City Code (Zoning) 570.05 Subd. 53
(Replaced 8-16-05)

Subd. 53 “Visible” - capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Subd. 54 “Wall” - any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

Subd. 55 “Wall sign” - any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Subd. 56 “Window sign” - any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

The definitions set forth in this Section 570.05 are in addition to the definitions set forth in Section 515.07, which shall apply to this Section 570, except that in the event of a conflict between the Sections, the definition in Section 570 shall apply.

570.07. Permit required.

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the zoning administrator and shall contain the following information:

a. names and addresses of the applicant, owners of the sign and lot;
b. the address at which any signs are to be erected;
c. the lot, block and addition at which the signs are to be erected and the street on which they are to front;
d. a complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
e. the cost of the sign;
f. type of sign (i.e. wall sign, monument sign, etc.);
g. certification by applicant indicating the application complies with all requirements of the sign ordinance; and
h. if the proposed sign is along state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign.

The zoning administrator shall approve or deny the sign permit in an expedited manner no more than 30 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 30 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of denial within 10 days its decision, describing the applicant’s appeal rights under Section 525.15, and send it by certified mail, return receipt requested, to the applicant.

570.09 Exemptions.

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.

b. Signs six (6) square feet or less in size.

570.11 Fees.

Sign permit fees are set by Chapter X.

570.15 Violations.

Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

570.17 Size.

No sign shall exceed 250 square feet in area.
Hopkins City Code (Zoning)

570.19 Regulations.

Subd. 1. General. Except as hereinafter provided, no signs shall be erected or maintained at any angle to a building or structure which sign extends or projects over the sidewalk, street or highway. No sign which is erected or maintained flat against any building or structure shall extend or project more than fifteen inches over the sidewalk, street or highway.

Subd. 2. Exceptions. The provisions of this subsection do not prohibit:

a. the erection and maintenance of signs, either illuminated or not illuminated, which are on the sides of a marquee which is firmly attached to and a part of a theatre, providing such signs are an integral part of the marquee and do not project above or below the marquee; or

b. the erection and maintenance of signs, not illuminated, which are attached to the marquee and which do not project more than 16 inches above the marquee.

570.21 Below marquee.

No sign, either illuminated or not illuminated, may project below a marquee.

570.23 Electrical signs.

Electrical signs must be installed in accordance with the current electrical code and a separate permit from the building official must be obtained prior to placement.

570.25 Unauthorized signs.

The following signs are unauthorized signs and are prohibited by this Section:

a. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

b. All off-premise signs.

c. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.

d. Portable signs.

e. Changeable copy signs.
Hopkins City Code (Zoning)

570.27. Setbacks.

Subd. 1. Signs shall conform to the following setback regulations for the zoning district in which the signs are located except as otherwise specified in this section.

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<td>Lot Line Rear - abutting R District</td>
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</table>

(Added Ord. 06-969)

570.29. Area.

The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.
570.31. **Canopies, marquees and fixed awnings.**

Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Business and Industrial Districts if they meet following requirements and the applicable square footage requirements.

a. an awning, canopy or marquee may not project into the public right-of-way nearer than 30 inches to the street curb or curb line;
b. awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than seven feet;
c. the architectural style of the awning, canopy or marquee may be consistent with the building being served;
d. awnings, canopy or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and

e. awnings, canopies or marquees built over the public right-of-way must be included in a liability insurance policy holding the city free of all responsibility.

570.33. **Illumination**

External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.

570.35. **Height.**

The top of a sign, including its superstructure, if any, shall be no higher than the roof of the building to which such sign may be attached or 35 feet above ground level, whichever height is less. Signs, including any superstructure standing or erected free of any building or other structure, shall not exceed an overall height of 35 feet from ground level and shall be located on land in an area which is landscaped or if such land is part of an approved parking area, it shall be surfaced or paved as required in the zoning code.

570.37. **Retroactive effect.**

This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

570.39. **Non-commercial speech.**

Notwithstanding any other provisions of this sign ordinance, all signs of any size containing Non-Commercial Speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.
Hopkins City Code (Zoning)

570.41. Permitted signs by district.

Subd. 1. Residential Districts
  a. Within residential zoning districts, signs are permitted as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum sign area of single sign</th>
<th>Total area of all signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1, R-2</td>
<td>8 square feet per surface</td>
<td>16 square feet</td>
</tr>
<tr>
<td>R-3, R-4,</td>
<td>12 square feet per surface</td>
<td>24 square feet</td>
</tr>
<tr>
<td>R-5, R-6</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

b. The following types of signs are not permitted in residential zoning districts:
   1. Awning signs;
   2. Balloon signs;
   3. Canopy signs;
   4. Flashing signs;
   5. Marquee signs;
   6. Pole signs;
   7. Pylon signs; and
   8. Shimmering signs.

Subd. 2. Business Districts
  a. Within business zoning districts, signs are permitted as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum sign area of single sign</th>
<th>Total area of all signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>B-1, B-2</td>
<td>60 square feet</td>
<td>2 square feet per front foot of building abutting a public right-of-way 50 feet or more in width.</td>
</tr>
<tr>
<td>B-3, B-4</td>
<td>80 square feet</td>
<td>3 square feet per front foot of lot (narrowest footage on a corner lot) abutting public right-of-way 50 feet or more in width.</td>
</tr>
</tbody>
</table>

Subd. 3. Industrial Districts
  a. Within industrial zoning districts, signs are permitted as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum sign area of single sign</th>
<th>Total area of all signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>I-1, I-2</td>
<td>250 square feet</td>
<td>4 square feet per front foot of lot plus 1 square foot per foot of side yard abutting a public right-of-way of 50 feet or more. Least width of frontage shall be considered front yard.</td>
</tr>
</tbody>
</table>

Subd. 4. Institutional Districts
  a. Within institutional zoning districts, signs are permitted as follows:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum sign area of single sign</th>
<th>Total area of all signs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional</td>
<td>60 square feet</td>
<td>3 square feet per front foot of lot (narrowest footage on a corner lot) abutting public right-of-way 50 feet or more in width. (Added Ord. 06-969)</td>
</tr>
</tbody>
</table>
570.42. Permitted signs: Business Park district.

Subd. 1. Wall Signs. Each tenant other than those in multi-tenant buildings may have one flat wall sign, not extending more than 18 inches from the face of the building, except that such sign age may extend from the face of the roof over a covered walk. Such wall signs shall not exceed 15% of the area of the wall to which the sign is attached, to a maximum of 96 square feet.

Subd. 2. Monument signs. Uses other than those in multi-tenant buildings may have a monument sign that shall not exceed 80 square feet per surface area, and 15 feet in height, and is setback a minimum 20 feet from the property lines.

Subd. 3. Multi-tenant signs. Each tenant in a multi-tenant building may have a flat wall sign, not extending more than 18 inches from the face of the building. The aggregate area of such signs shall not exceed 5% of the area of the wall to which they are attached.

Subd. 4. Multi-tenant monument signs. One monument sign shall be permitted for each multi-tenant building provided the surface area of the sign does not exceed two square feet per front foot of lot. Signs shall not be over 150 square feet, or 20 feet in height, and shall be set back 20 feet from the property lines. (Amended Ord. 11-1026)

Subd. 5. Canopies and Awnings. The design of canopies shall be in keeping with the overall building design in terms of location, size, and color. No canopies with visible wall hangers shall be permitted. Signage on canopies may be substituted for allowed building signage and shall be limited to 25% of the canopy area. Internally illuminated canopies must be compatible with the overall color scheme of the building.

570.43. Non-conforming signs: compliance.

It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, but will be prohibited under the terms of this section. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon or expanded, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

a. No sign shall be enlarged or altered in a way which increases its nonconformity
b. If the use of the nonconforming sign or sign structure is discontinued for a period of one year, the sign or sign structure shall not be reconstructed or used except in conformity with the provisions of this ordinance.
c. Should such nonconforming sign or sign structure be damaged or structure be destroyed by any means to an extent greater than fifty (50) percent of its market value and all required permits for its reconstruction have not been applied for within 180 days of when the sign or sign structure was damaged, it shall not be reconstructed or used except in conformity with the provisions of this ordinance.
d. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

e. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, expanded or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

f. When a building loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

570.45. Substitution Clause.

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial speech in lieu of any other commercial speech or non-commercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.
CITY OF SCANDIA
ORDINANCE NO. 165

AN ORDINANCE AMENDING
ORDINANCE NO. 122, THE SCANDIA DEVELOPMENT CODE,
CHAPTER 1, SECTION 4.2 and CHAPTER 2, SECTION 3.13 REGARDING
DEVELOPMENT STANDARDS FOR SIGNS

The City Council of the City of Scandia, Washington County, Minnesota hereby ordains:

Section 1. Amendment. Ordinance No. 122, the City of Scandia Development Code
(“Development Code” or “Code”), Chapter One, Section 4.2, Definitions, shall be amended to add the following definitions:

Abandoned Sign: Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more; or any sign which pertains to a time, event or purpose which no longer applies; or any sign whose permit has expired shall be deemed to have been abandoned. Signs applicable to a use temporarily suspended because of a change in ownership or management of such use shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

Banner: A temporary sign made of lightweight fabric or similar material with no enclosing framework that is mounted to a pole or a building at one or more edges. National flags, state or municipal flags or the official flag of any organization shall not be considered a banner if displayed for noncommercial purposes.

Height of sign: The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

Pennant: Any lightweight plastic, fabric or other material designed to move in the wind, whether containing a message or not.

Sign: Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign, Animated (also called Dynamic Display signs): Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent
movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign fact to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking or animated display, and any display that incorporates rotating panels, LED lights manipulated through digital input, “digital ink,” or any other method or technology that allows the sign face to represent a series of images or displays.

Sign, Awning: A building sign or graphic printed on or in some fashion attached directly to the awning material.

Sign, Back-lit or Illuminated: A sign which contains an element designed to emanate artificial light internally or externally.

Sign, Freestanding: A sign which has a supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Sign, Monument: Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.

Sign, Off-Premises: A sign that directs attention to a use not located upon the premises where the sign is located or to which it is attached.

Sign, Portable: A sign, with or without copy and/or graphics, that is constructed or placed upon a chassis with wheels or skids in order to be movable from one location to another, such as may be mounted on an automobile or trailer. This definition does not include permanent identification signs painted directly on vehicles, principally used for transportation, but does include such signs if the vehicles are not used for transportation purposes but are intended as a structure to support a sign.

Sign, Pylon/Pedestal: A permanent, freestanding sign mounted on one (1) central shaft or post that is solidly affixed to the ground.

Sign, Roof: Any sign erected and construction wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Sandwich-Board: A sign composed of two boards and being either carried by a person, with one board in front and one behind, creating a "sandwich" effect; or set up in a triangle shape, hinged along the top.

Sign, Temporary: A sign designed or intended to be displayed for a short period of time and that is not permanently installed.

Sign, Wall: A Building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface, or erected an confined within the limits of an outside wall of any
building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Section 2. Amendment. Ordinance No. 122, the City of Scandia Development Code ("Development Code", or "Code"), Chapter Two, Section 3.13, Signs, shall be amended to read as follows:

3.13 Signs

(1) Applicability. The regulations contained herein do not apply to signs painted, attached by adhesive or otherwise attached directly to or visible through windows and glass portions of doors.

(2) Permit Required. Except as otherwise provided in this Development Code, no sign shall be erected, constructed, altered, rebuilt or relocated until an Administrative Permit or Conditional use permit as may be required for the sign has been issued. Application for a permit shall be accompanied by the established fee.

No permit will be required under this Development Code for the following signs:

(A) Signs up to ten (10) square feet in area.

(B) Noncommercial Signs that comply with Minnesota Statutes 211B.045 or successor statutes.

(C) Signs placed on parcels that are currently offered for sale providing such signs are not closer than 10 feet to any property line and shall not exceed ten (10) square feet in area. One sign shall be permitted for each street frontage.

(D) Signs erected on parcels that are currently under construction for single-family or multiple-family residences. The plat of the development shall be recorded with the Washington County Recorder prior to the erection of a sign. Signs are subject to the following standards.

1. Such signs shall not exceed one hundred (100) square feet in area.

2. Only one (1) such sign shall be erected on each road frontage with a maximum of three (3) such signs per project.

3. Such signs shall be removed when the project is eighty percent (80%) completed, sold or leased.

4. Such sign shall be located on the property which is for sale. Off-site development project signs are prohibited.

5. One sign shall be allowed for each street entrance to a parcel currently under construction. The sign shall not exceed thirty-two (32) square feet per surface and no sign shall have more than two surfaces. The sign shall not exceed eight (8) feet in height.
If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(3) Signs by Conditional Use Permit. Where a use is permitted in a zoning district by Conditional Use Permit, the sign for that use shall require a Conditional Use Permit unless the sign is otherwise provided for in this Chapter.

(4) General Standards.

(A) Signs located in the Village Mixed Use (VMU A and B), Village Neighborhood (VN), and Rural Commercial (R COMM) Districts shall be reviewed for compatibility with the Scandia Architectural Design Guidelines, as applicable.

(B) No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard; nor shall signs be permitted which would otherwise interfere with traffic control.

(C) All signs, other than public utility warning signs, are prohibited within a public right of way.

(D) Backlit or illuminated signs are permitted in all districts, and shall be diffused or indirect so as not to direct rays of light onto any public right-of-way or adjacent residential property. No backlit or illuminated signs or their support structures shall be located closer than twenty-five (25) feet to any roadway surface or closer than ten (10) feet to a road right-of-way line, notwithstanding more restrictive portions of this section.

(E) LED (light-emitting diode) luminaires, or other energy-saving luminaires, may be used in backlit signs, illuminated signs or other signs permitted by this ordinance.

(F) Flashing signs and animated signs (also called Dynamic Display signs) shall be prohibited. Signs giving off intermittent, rotating, or direct light, which may be confused with traffic, aviation, or emergency signaling, are also prohibited.

(G) One (1) wall sign shall be allowed for each street frontage on a building for each use located within such building. The total area of all wall signs affixed to a building wall shall not exceed twenty percent (20%) of the total area of that wall. No individual wall sign shall exceed one hundred and fifty (150) square feet.

A wall sign shall not project more than eighteen (18) inches from the wall to which the sign is to be affixed. Wall mounted signs shall not exceed the roof line on any building. Wall signs located in the Village Mixed Use (VMU A and B), Village Neighborhood (VN), and Rural Commercial (R COMM) Districts shall be reviewed for compatibility with the Scandia Architectural Design Guidelines.

The City Council may approve the placement of murals on building walls that exceed the standards for wall signs.

(H) Signs shall not be painted on a fence, tree, or other object in any district.
(I) Roof signs are prohibited in all districts.

(J) All signs and displays using electric power shall have a cutoff switch on the outside of the sign and on the outside of the building or structure to which the sign is attached.

(K) Multi-faced signs shall not exceed two (2) times the allowed square footage of single faced signs.

(L) Except for more restrictive parts of this Chapter, no sign that exceeds one hundred (100) square feet in area shall be erected or maintained:

1. Which would prevent any traveler on any road from obtaining a clear view of approaching vehicles on the same road for a distance of five hundred (500) feet.

2. Which would be closer than one thousand three hundred fifty (1,350) feet to a national, state or local park, or historic site.

3. Which would obstruct more than fifty (50) percent of the view of a lake, river, rocks, wooded, area, stream or other point of natural and scenic beauty.

(M) Any sign for which a permit is required but no permit has been issued shall be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign may be found within thirty (30) days after written notice from the Zoning Administrator.

(N) Any sign which is abandoned or becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed or structurally improved by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

(O) If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(5) Signs in Agriculture - Core (AG-C), Agriculture Preserves (AP), General Rural (GR) and Village Neighborhood (VN) Districts.

(A) The maximum area permitted for a single sign shall be 10 square feet per surface. Up to three signs that meet this requirement are allowed per parcel.

(B) No sign shall be so constructed as to have more than two (2) surfaces.

(C) Noncommercial signs shall conform to Minnesota Statutes 211B.045.

(D) The top of the display shall not exceed ten (10) feet above grade.

(E) Any sign over two (2) square feet shall be setback at least ten (10) feet from any property line. In no case shall any part of the sign be closer than two (2) feet to a vertical line drawn at the property line.

(F) The following types of signs are not permitted in the AG C, AP, GR and VN Districts:
1. Animated signs
2. Awning signs
3. Canopy signs
4. Flashing signs
5. Portable signs
6. Pylon signs
7. Pennants

(6) Signs in Village Mixed Use - A (VMU-A), Village Mixed Use – B (VMU-B), Rural Commercial (R-COMM) and Industrial Park (IP) districts.

(A) Noncommercial signs shall conform to Minnesota Statutes 211B.045.

(B) The total square footage of permanent sign area for each lot shall not exceed one (1) square feet of sign area for each lineal foot of building front. No sign shall exceed two hundred (200) square feet in area.

(C) Each business or organization may display one temporary or portable sign (including sandwich-board signs) in addition to the area of permanent signs permitted. The temporary sign shall not exceed forty (40) square feet in size, and shall be permitted for a period of no more than thirty-four (34) consecutive days. No permit is required for one temporary or portable sign.

(D) The top of a monument sign shall not exceed eight (8) feet above the average grade.

(E) Any sign over six (6) square feet shall be setback at least ten (10) feet from any property line. In no case shall any part of a sign be closer than two (2) feet to a vertical line drawn at the property line.

(7) Shopping Center Signs.

(A) Shopping Centers or buildings containing more than one (1) tenant are allowed one (1) monument sign which may contain the names of all tenants in the project. Individual tenants may be identified by way of signs attached to the building. The total square footage of sign area may not exceed the limits set forth in Section 6(B) above.

(B) Signs shall in no case project from a building or structure to any point within two (2) feet of a line drawn perpendicular from a curb line. No projecting sign shall be less than nine (9) feet above the sidewalk or the ground level. All projecting signs for which a permit is required shall be constructed entirely of fire resistant material.

(8) Off-Premises Signs

(A) Up to two multi-tenant off-premises signs (one for each roadway direction) may be permitted near the intersections of Olinda Trail North and TH 97, Oakhill Road North and TH 97, Manning Trail North and TH 97, TH 95 and TH 97, and Oakhill
Road North and TH 95, within the VMU A and VMU B Districts Scandia. The sign may be a monument sign or freestanding directional sign.

(B) The City Council shall grant a Conditional Use Permit for any off-premises sign. When the applicant is any person other than the owner of the property, the owner of the property shall also sign the application. The application shall contain the following information:

1. Name, address and telephone number of the property owner, sign owner, and erector.

2. Proposed location of the sign structure, including property identification number and address.

3. Scaled drawing showing the position of the sign structure in relation to the property lines, nearest buildings, structures, public streets, and rights-of-way.

4. Plans, specifications, materials, and method of construction or attachment to the ground or a structure, including all dimensions, all construction materials, a description of all light sources, wattage, types and color of lights, and details of light shields.

5. Any electrical permit required for the sign.

6. If the sign is proposed within the right-of-way of a state or county highway, the applicant shall obtain any required permits and provide a copy of the approved permit to the City.

7. Other information as required by the city.

(C) Off-premises signs shall be compatible with the Scandia Architectural Design Guidelines.

(D) In addition to the above application, an agreement must be entered into with the city which will authorize and direct the city to:

1. Remove at the expense of the owner, the sign and sign structure, where maintenance is required, but not furnished after a hearing and a 10-day notice to the owner specifying the maintenance required by the city.
Section 2. Effective Date. This ordinance shall be in full force and effect upon its adoption and publication according to law.

Passed and adopted by the City Council of the City of Scandia this November 17, 2015.

[Signature]
Randall Simonson, Mayor

ATTEST:

[Signature]
Kristina Handt, Administrator/Clerk
Chapter 18.5 - SIGNS

Footnotes:

--- (1) ---

Editor's note—Ord. No. 1641, § 1641.02, adopted Jan. 10, 1996, enacted new sign provisions for the city designated as Ch. 25, §§ 25-1—25-134. With the approval of the city, such provisions were redesignated as Ch. 18.5 in order to maintain the alphabetical sequence of chapter titles within the Code.

Cross reference—Buildings and building regulations, Ch. 6; business regulations, Ch. 11; zoning, Ch. 24.

State Law reference—Signs and billboards along highways, Minn. Stat. § 173.01 et seq.; conflicts between statute and local ordinance, Minn. Stat. § 173.10; statutory exemption of certain noncommercial signs from local ordinance, Minn. Stat. § 211B.045.

ARTICLE I. - IN GENERAL

Sec. 18.5-1. - Citation.

This chapter may be cited as the "Woodbury Sign Ordinance" or as the "sign ordinance".

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-2. - Findings.

(a) Signs are an essential element of any community. Their location, number, size, design and relationship to each other and to other structures has a significant influence upon a community's appearance and welfare, and a resultant effect upon a viewer's perception of the community. Signs serve a useful purpose in communicating a message, whether commercial or otherwise.

(b) Where signs are not properly regulated, they contribute to visual clutter, confusion, aesthetic blight, and create an unpleasant impression. They may cause traffic hazards and impede rather than enhance commerce. In such situations, signs may fail to achieve their original objective of communication. Failure to appropriately regulate signs adversely affects the public health, safety and welfare.

(c) Property and facilities located within the public right-of-way, such as utility poles, benches, hydrants, bridges, sidewalks, traffic sign posts, and similar structures are not by tradition or designation a forum for communication by the general public. The city wishes to preserve these structures for their intended purpose, which is the safe, efficient and pleasant movement of vehicular and pedestrian traffic, and the safe operation of utility systems.

(d) The regulations and prohibitions of the chapter are necessary to preserve items and structures located within the public right-of-way for their intended purposes, and to prevent the visual clutter, blight, and traffic hazards caused by signs.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-3. - Purpose and intent.

The purpose of this chapter is to create a comprehensive and balanced system of signs which will facilitate communication. It is the intent of the chapter to authorize the use of signs which:

(1) Encourage a desirable urban character consistent with the general plan.
(2) Preserve and improve the appearance of the city as a place to live, work and visit.

(3) Eliminate confusing, distracting, or dangerous sign displays which interfere with vehicular traffic.

(4) Promote commerce.

(5) Provide for fair and equal treatment of sign users.

(6) Promote efficient administration of the sign ordinance through a complete and understandable sign ordinance.

(7) Provide for eventual elimination of preexisting nonconforming signs on a fair and equitable basis.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-4. - Diagrams.

(a) The inclusion of diagrams in this text is for illustrative purposes only. Where a diagram conflicts with the written text, the text shall prevail.

(b) Diagrams for illustrative purposes. Locations, sizes or heights of signs depicted on site plans or other drawings submitted with any planning application shall be for illustrative purposes only. The construction of each sign shall meet the requirements of the sign ordinance unless the conditions of approval for a planned unit development provide otherwise.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1764, § 1764.01, 8-24-2005; Ord. No. 1796, § 1796.02, 11-29-2007)

Sec. 18.5-5. - Definitions.

As used in this chapter, the following words and terms shall have the meaning ascribed thereto:

Address sign means identification numbers assigned for address purposes in accordance with the City Code. Address signs may be written or in numeric form. The building name is not a part of the address.

Area identification sign means a freestanding sign which identifies the name of, including but not limited to, a shopping center or shopping area, an industrial area, or an office complex consisting of three or more structures or any combination of the above that could be termed an area.

Area of freestanding sign means the area of the sign. It does not include embellishments such as the monument base, pole covers, framing or decorative roofing provided that there is no advertising copy on or attached to such embellishments. If the freestanding sign is double faced, only one face is used to
calculate sign area. If the freestanding sign has more than two faces, each face is used to calculate the sign area.

*Area of wall sign* means the total area of the sign, including all structures framing the sign, background embellishments or area contained within a rectangle or square drawn completely around the display surface, even if the sign consists of individual letters.

*Auxiliary canopy* means a roof-like structure projecting over, including but not limited to, gasoline pump islands, drive-through banking or any canopy with a drive-through lane. An auxiliary canopy provides weather protection for more than the building entrance or windows. Auxiliary canopies may be attached or detached from the principal building. For sign purposes auxiliary canopies shall be considered a separate structure.

*Banner* means a flexible/flaccid piece of cloth, paper, nylon, canvas, plastic, or similar material upon which copy, images, branding, colors and the like may be located. When used within a sign cabinet, and
maintained taut, flexible material(s) shall not be viewed as a banner.

Banner flag means a freestanding temporary sign consisting of a piece of flexible/flaccid cloth, plastic, or similar material that is typically attached lengthwise to a single pole and designed to flutter/wave in the wind.

Bench sign means a sign on a bench at a bus stop or similar public area.

Building canopy or awning means a roof-like structure projecting from the building over an entrance or window that provides weather protection for the entry or window and may include the immediately adjacent area. Building canopies shall be considered part of the wall area and thus shall not warrant additional sign area.

Building complex means a group of two or more buildings, planned or developed in a joint manner with shared parking facilities, regardless of whether such buildings or uses are located on the same lot or parcel.

Canopy. See "building canopy" and "auxiliary canopy".

City means the City of Woodbury.

City council or council means the city council of the City of Woodbury.

Class I material means brick, natural stone or copper.

Class II material means specialty concrete block such as textured, burnished block or rock faced block; architectural precast textured concrete panels; masonry stucco; and ceramic.
Clear vision triangle means the area created by drawing an imaginary line between points 30 feet back from where the curb lines of the intersection quadrant meet.

Comprehensive sign plan means sign criteria for proposed signs approved by the city.

Construction sign means an on-site temporary sign which displays information regarding a project under construction.

Directional sign means an on-site sign designed to guide vehicular or pedestrian traffic that does not promote or advertise a business, property or product.

Directory sign means a sign listing the names and locations of occupants or activities conducted within a building or group of buildings that does not otherwise promote or advertise a business, property or product.

Electronic display sign is a permanent sign capable of displaying words, symbols, figures or images that uses an electronic display created through the use of a pattern of lights in a dot matrix configuration, LED (light emitting diode) or digital technology which allows for the sign face to intermittently change the image without having to physically or mechanically replace the sign face.

Entrance monument sign means a sign identifying a residential neighborhood or subdivision or a multiple residential complex consisting of three or more dwellings.

Flag means a piece of cloth, nylon, canvas or similar flexible/flaccid material used as a symbol of a nation, state, municipality, corporation or the like.

Freestanding sign means any sign not affixed to a building including, but not limited to, a ground-mounted sign, detached sign, pole sign, pylon sign or monument sign.

Freeway means Interstate 94 or Interstate 494.

Garage sale sign or yard sale sign means a temporary, on-site sign advertising a garage, yard or similar sale.
Governmental sign means a sign which is erected by a governmental unit for the purpose of directing or guiding traffic or any sign owned or erected by the city.

Grade means the elevation of the finished surface of the ground or paving at the base of the sign.

Height of freestanding sign means the actual distance from the grade to the highest point of the sign, or any structure or architectural component of the sign.

Home occupation sign means a sign located at a residence advertising a business conducted in the residence or by persons residing in the residence.

Illuminated sign means a sign illuminated with artificial light by any means, whether internal or external.

Inflatable sign means any object enlarged or inflated which floats, is tethered in the air, or is located on the ground or on a building.

Informational sign means a sign erected for the safety or convenience of the public including but not limited to "Restrooms", "Telephone", "Danger", "No Smoking", "Manager's Office", and other signs that do not promote or advertise a business, property or product.

Institutional sign means any on-site sign which identifies the name and other characteristics of a public or private institution including but not limited to place of worship, school or government facility.

Marquee means a roof or canopy-like structure projecting over an entrance to a theater or similar building.

Memorial sign means a noncommercial sign erected in remembrance of any historic occasion or occurrence of significance to the general public.

Menu/order board sign means a sign installed in a drive-through facility and intended for drive-through customers that advertises the products available at the facility.

Motion sign means any sign that revolves, rotates, flashing or changing lights, reflective material, any material that gives the illusion of motion, has any moving parts, search lights used for advertising or changes the message or display automatically.

Nonconforming sign means a sign which lawfully existed prior to January 10, 1996 but does not conform to this chapter.

Nonprofit organization means an organization meeting the requirements of Internal Revenue Code Section 501(c).

Off-site sign means a sign which advertises any business, product, person, event or service conducted, sold, manufactured or located off the premises where the sign is located.

On-site sign means a sign which advertises any business, product, person, event or service conducted, sold, manufactured or located on the premises where the sign is located.

Open house directional sign means a temporary sign, either on-site or off-site, which indicates the location of a private residence offered for sale.

Opinion sign means a sign that expresses an opinion or point of view that does not advertise any product, service or business or display a commercial message.

Parcel means a legal parcel of land or lot of record.

Pennant means pieces of cloth, paper, or plastic intended to be individually supported or attached to each other by means of rope, string or other material, and intended to be hung on buildings or other
structures or between poles that does not include any company logo or other form of copy.

*Permanent sign* means any sign which is not a temporary sign.

*Permit or sign permit* means a permit issued by the city to erect or maintain a sign.

*Political sign* means a sign pertaining to an election to any public office, any ballot measure, or containing any social, ideological or religious information of a noncommercial nature.

*Pornographic sign* means a sign which is a presentation, display, depiction or description of specified sexual activities or specified anatomical areas as defined in article XI, adult uses, section 11-301 of the Woodbury City Code.

*Portable sign* means a sign designed to be movable from one location to another with or without wheels.

*Primary entrance* means a main public entrance to the property or building. In the case of multiple entrances, the number of primary entrances will be determined by the city.

*Property* means a legal parcel of land or a lot of record.

*Property line* means the boundary of a property, lot or parcel. Buildings on the same parcel may have an assumed property line, as established by the city, for setback purposes.

*Projecting sign* means a wall sign which protrudes horizontally more than one foot from the wall to which it is attached.

*Readerboard sign* means a sign where the message is changeable but does not change automatically.

*Real estate sign* means any sign pertaining to the sale, lease or rental of land or buildings.

*Roof line* means (a) the top line of the outside wall on a flat roof building, whether the roof is at or below the wall line or (b) the soffit on a building with soffits or (c) the line formed by the junction of the roof
and the outside wall on a sloped roof without soffits.

*Roof sign* means a sign erected on the roof or above the roof line of a building or a sign painted on or attached directly to the roof.

*Sign* means any structure, figure, character, picture, decorative lighting, neon lighting, attention-getting device and all of its component parts, which is used or intended to be used to announce, declare, display, advertise, or otherwise communicate to the public.

*Street frontage* means the proximity of a parcel of land to one or more streets. An interior lot has one street frontage and a corner lot two street frontages.

*Temporary sign* means any sign designed or intended to be displayed for limited periods of time, including, but not limited to, all non-permanently affixed signs, flyers, banners, pennants, A-frame signs, inflatable signs, flying signs or flags.

*Under canopy sign* means any sign hanging below a building canopy, awning, or building overhang.

*Variance* means a modification or variation of the provisions of this chapter, where it is determined that by reason of special or unusual circumstances relating to a special lot, strict application of this chapter would cause undue hardship.

*Wall* means the vertical surface that defines the exterior boundary of a building.

*Wall sign* means a single-faced sign painted on, attached to or erected against the exterior wall of a building, structure, canopy or awning.
Window sign means any sign placed on the interior of a window, or painted on a window such that it can be read from the outside of the building.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009; Ord. No. 1962, § 1, 6-26-2019)

Secs. 18.5-6—18.5-15. - Reserved.

ARTICLE II. - PERMITS

Sec. 18.5-16. - Required.

A sign permit is required prior to the improvement, erection, construction, enlargement, alteration or repair of any sign unless exempt by this chapter.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-17. - Administration.

Administration, enforcement, permits, fees and inspections shall be as established for building permits in chapter 6 of the City Code.

Exception: Written permit applications are not required for no-fee temporary special events.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-18. - Variances.

A sign permit applicant or permit holder may appeal an order or determination by making an application for a variance. Variance procedures shall be established in the Woodbury Zoning Ordinance, chapter 24, article II, division 5.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-19. - Permit not required.

A permit is not required for the following signs:

1. Address signs.

2. Agricultural products for sale. Signs advertising agricultural products for sale are allowed on agricultural land as defined by state statute.
   a. Number. Each sale location may have one sign.
   b. Area. Sign may not exceed 24 square feet.
   c. Location. Sign shall be at least 15 feet from the property line.
   d. Height. Sign may not exceed six feet.
   e. Advertising and sale is allowed only for agricultural products produced on the site.

3. Construction sign. In residential zoning districts one temporary construction sign not to exceed six square feet and six feet in height is allowed during construction not to exceed 180 days. In
the nonresidential zoning districts construction signs not to exceed 100 square feet are allowed during construction for not more than one year.

(4) Copy change. Change copy or message on a sign, provided there are no changes to the physical structure or area of the sign.

(5) Directional signs. Directional signs to places of worship, schools, parks and public buildings within the city not to exceed four square feet may be placed in the street right-of-way subject to the approval of the road authority. Not more than three directional signs are allowed for each building or location.

(6) Flags. Flags of any nation, state or municipality. This exemption does not apply to flags bearing corporate emblems, logos or copy unless flown on the same staff with the flag of the United States or the State of Minnesota. Flags not within this exemption are deemed freestanding signs.

(7) Floor treatments. Every nonresidential use may maintain special exterior floor treatment not to exceed 100 square feet in area, such as paint or terrazzo indicating the name of the business and/or a business logo. Floor treatments shall be completely flush with the surrounding pavement and shall be on a floor or pavement which is completely horizontal.

(8) Garage/yard sale signs.
   a. Three off-site signs relating to the sale are allowed.
   b. Only one on-site sign advertising the sale shall be allowed.
   c. The maximum size of signs shall be six square feet in area and four feet in height.
   d. The sign shall only be displayed during the term of the sale and must be removed when the sale is completed.
   e. Signs shall be at least five feet from the curb or shoulder of the road.
   f. Signs must be for sale locations within the City of Woodbury.

(9) Governmental signs are exempt from the requirements of this chapter.

(10) Help wanted signs. When position(s) are available, one temporary help wanted sign is allowed not to exceed six square feet. Help wanted signs may be window signs, wall signs or freestanding signs.

(11) Informational signs. Informational signs not to exceed two square feet.

(12) Interior signs. Interior signs located completely within a building and not visible from outside the building are exempt from the provisions of this chapter.

(13) Memorial signs.

(14) Open house directional signs. Off-site open house directional signs for individual homes are allowed subject to the following:
   a. Such signs shall be erected for not more than 48 continuous hours.
   b. Such signs shall be freestanding, and shall not exceed six square feet.
   c. Maximum height shall be four feet.
   d. No more than three signs for any open house shall be displayed.
   e. Open house directional sign shall not be placed on vehicles.
   f. Signs shall be at least five feet from the curb or shoulder of the road.

(15) Model home signs.
   a. Freestanding Signs.
1. Number. Each model home may have one freestanding sign.
2. Area. The area of the sign shall not exceed 24 square feet.
3. Location. All portions of the sign shall be at least 15 feet from the property line.
4. Height. The maximum height shall be six feet.

(16) Opinion signs. In residential zoning districts, one opinion sign per street frontage is allowed per parcel not to exceed six square feet and four feet in height. In nonresidential zoning districts, signs allowed by this chapter may contain opinion messages but additional signs or sign area for opinion signs are not allowed. On undeveloped properties in nonresidential zoning districts, one opinion sign up to 32 square feet is allowed.

(17) Political signs. Noncommercial political signs may be posted 100 days before the election until ten days following the election.

(18) Real estate signs. On-site real estate signs for the sale or lease of property are allowed subject to the following regulations:
   a. One sign per street frontage is allowed.
   b. Residential signs are allowed six square feet in area and six feet maximum height.
   c. Signs on residential property of five acres or more that is unplatted and undeveloped are allowed 32 square feet and six feet maximum height.
   d. Nonresidential signs are allowed 32 square feet in area and 12 feet maximum height.
   e. Real estate signs shall be removed upon sale or lease of the property.
   f. Signs shall be at least ten feet from the curb or shoulder of the road.

(19) Scoreboards. Public athletic fields are allowed one scoreboard not to exceed the following:

<table>
<thead>
<tr>
<th>Facility</th>
<th>Maximum Sign Area (Square Feet)</th>
<th>Advertising Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bielenberg Sports Complex, Junior High School and Senior High School</td>
<td>200</td>
<td>30%</td>
</tr>
<tr>
<td>Community Parks</td>
<td>100</td>
<td>10%</td>
</tr>
</tbody>
</table>

(20) Security system signs. Signs identifying the presence of a security or alarm system are allowed not to exceed two square feet.

(21) Temporary on-site development signs. Temporary on-site development signs may be installed for the purpose of selling or promoting a residential project of ten or more dwelling units or a nonresidential project subject to the following:
   a. Number. Each project may have one sign per street frontage.
   b. Area. Signs shall not exceed 100 square feet.
   c. Location.
      1. Signs must be at least 15 feet from property lines.
      2. Signs must be at least 200 feet from any existing residence.
d. Height. The maximum height shall be ten feet.

e. Signs shall not be installed until construction has started or the project is approved.

f. Removal. Signs shall be removed when the project is completed, sold or leased.

(22) Window signs.

(23) Temporary banners or sign covers. Temporary banners or sign covers may be used to identify a new business, a business name change, or change in ownership for up to 90 days after such change. After that time, if signage is desired, it must be permanent signage in conformance to the sign ordinance and/or approved comprehensive sign plan.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1659, § 1659.03, 4-9-97; Ord. No. 1816, § 1816.01, 3-11-2009)

Secs. 18.5-20—18.5-25. - Reserved.

ARTICLE III. - COMPREHENSIVE SIGN PLAN

Sec. 18.5-26. - Purpose.

Due to the complexity and infinite variety of development, it is not possible to establish rules that are completely fair and equitable in all situations. The purpose of the comprehensive sign plan is to create a process that will be fair and equitable in specific situations where the general regulations may not be adequate. If possible, the underlying zoning district regulations should be used as a guideline with minimum variations as needed to meet the intent of this chapter. In all cases where the zoning district regulations and the comprehensive plan conflict, the approved comprehensive plan shall govern.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-27. - Comprehensive sign plan.

A comprehensive sign plan is required for:

(1) Building complexes.

(2) Covered mall building.

(3) Nonresidential planned unit development.

(4) Multitenant, shared entrance office buildings.

(5) Area identification signs.

(6) Other uses as required by the city.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-28. - Effect of comprehensive sign plan.

Upon approval of a comprehensive sign plan, all future signs shall conform to the comprehensive sign plan. Modifications to the provisions of the comprehensive sign plan may be granted only with the approval of a new comprehensive sign plan.

(Ord. No. 1641, § 1641.02, 1-10-96)
ARTICLE IV. - REGULATION OF SIGNS

DIVISION 1. - GENERALLY

Sec. 18.5-36. - Approval of property owner.

Signs shall not be placed on any property without approval of the property owner.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-37. - Address signs.

One address sign is required for every principal building. Residential signs may not exceed two square feet and nonresidential signs may be up to six square feet.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-38. - Area identification signs.

Area identification signs are allowed with a comprehensive sign plan.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-39. - Auxiliary canopy signs.

All backlit portions of an auxiliary canopy shall be considered sign area and be limited by the wall sign regulations of the underlying zoning district. All portions of a canopy to be lighted shall be backlit.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-40. - Clear vision triangle.

No signs are allowed within the clear vision triangle that may interfere with driver visibility. Signs shall not be placed in any location causing site obstructions that will interfere with traffic or create a traffic hazard.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-41. - Double-faced signs.

Double-faced signs shall be placed back to back (parallel) with not more than 18 inches between facings.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-42. - Hours of illumination.
The city may specify the hours any sign may be illuminated. The hours of illumination may be specified on the permit or any time during the life of the sign. Illuminated signs shall have a shielded light source.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-43. - Reserved.

Editor's note—Ord. No. 1816, § 1816.01, adopted March 11, 2009, repealed § 18.5-43, which pertained to maximum sign base and derived from Ord. No. 1641, § 1641.02, 1-10-96.

Sec. 18.5-44. - Prohibited signs.

All signs not specifically allowed by this chapter are prohibited except as allowed by section 18.5-96 for temporary special events. It is unlawful to erect, reconstruct, alter, maintain or place the following types of signs:

(1) Bench signs.
(2) Bus shelter signs.
(3) Flying signs, such as blimps or kites, designed to be kept aloft by mechanical, wind, chemical or hot air means.
(4) Home occupation signs.
(5) Inflatable signs, including but not limited to balloons.
(6) Motion signs.
(7) Odor. Signs which emit any odor, noise or visible matter other than light.
(8) Off-site signs, except as specifically allowed by this chapter.
(9) Painted signs. Signs painted directly on a building, fence, tree, stone or similar object.
(10) Pennants.
(11) Pornographic signs.
(12) Portable signs.
(13) Projecting signs.
(14) Right-of-way. Signs are prohibited in public right-of-way except for governmental signs or other signs specifically allowed by this chapter.
(15) Roof signs.
(16) Signs bearing misleading or false information or information inconsistent with the zoning or other regulations.
(17) Utility poles. Signs are not allowed on utility poles.
(18) Vehicle signs. A vehicle may not be used as a sign or as the base for a sign where the primary purpose of the vehicle in that location is its use as a sign.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-45. - Reader board and electronic display signs.
Reader board or electronic display signs may occupy the sign area allowed for freestanding or wall signs. Electronic display signs may only be permitted with an interim conditional use permit. Messages shall not change more than once per day.

(Ord. No. 1832, § 1832.01, 4-28-2010)

Sec. 18.5-46. - Setback.

Signs shall be at least 15 feet from the property line unless specifically allowed a different setback.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-47. - Sign identification tag.

A sign identification tag identifying the owner, their address and phone number must be placed in the lower left corner of all off-site signs erected for more than 30 days.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-48. - Use discontinued.

When any use is discontinued, all signs and sign supports relating to that use shall be removed.

(Ord. No. 1641, § 1641.02, 1-10-96)

Secs. 18.5-49—18.5-55. - Reserved.

DIVISION 2. - NONRESIDENTIAL ZONING DISTRICTS (ALL ZONING DISTRICTS EXCEPT R-1, R-2, R-4 AND R-4(MX))

Sec. 18.5-56. - Freestanding signs.

(a) Number. Each building may have one freestanding sign per street frontage.

(b) Area.

(1) A building site having one street frontage may have one freestanding sign not to exceed 80 square feet.

(2) Building sites with two or more frontages may have one freestanding sign not to exceed 80 square feet and other freestanding signs not to exceed 40 square feet.

(3) Building sites adjacent to the freeway may have one freestanding sign on the freeway frontage not to exceed 150 square feet and one freestanding sign on a second frontage not to exceed 80 square feet and other signs not to exceed 40 square feet.

(c) Location.

(1) All portions of the sign shall be at least 15 feet from property lines.

(2) Freeway signs must be not more than 100 feet from the freeway property lines.

(3) No freestanding sign over three feet high shall be erected or maintained within the clear vision triangle.
(4) Freestanding signs shall not be erected or maintained any closer than three feet to any building.

(d) **Height.** The maximum height for freestanding signs shall be 20 feet except freeway signs may be 30 feet.

(e) **Design.** Freestanding signs shall be attached to a base which is at least 75 percent of the width of the sign but shall not exceed the width of the sign by more than 20 percent. The base shall be constructed of class I materials that match those used on the building for which the sign is installed. If no class I materials are used on the building, class I or II materials shall be used.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1764, § 1764.01, 8-24-2005; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-57. - Wall signs.

(a) **Number.** Any number of wall signs may be installed on a wall.

(b) **Area.**

(1) The least restrictive of (1)a. or (1)b. may be used for allowable area.

   a. The total area of all wall signs on any wall shall not exceed eight percent of the area of the wall with a maximum allowable area of 60 square feet; or

   b. The total area of all wall signs on any wall shall not exceed four percent of the area of the wall with a maximum allowable area of 200 square feet.

(2) The allowable area of wall signs for multitenant buildings with individual entrances from the outside shall be calculated based on the exterior wall area of the space the tenant occupies. Each tenant frontage shall be considered a separate wall.

(3) Auxiliary canopies area allowed wall signs based on the wall area of the canopy (vertical surface below the roof line).

(c) **Location.**

(1) Wall signs may be placed on not more than three walls of rectangular shaped structures or not more than 75 percent of the major walls on nonrectangular shaped buildings.

   a. Signs may be attached flat against or pinned away from a building wall, but shall not extend or protrude more than 18 inches from the wall.

   b. Signs may be attached to the facade of a building, but shall not extend above the roof line.

   c. Signs may be on a building canopy, awning or marquee. Such signs will be considered wall signs on the wall [to which] the canopy or awning is attached.

   d. Wall signs must be below the roof line.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-58. - On-site directional signs.

(a) **Number.**

(1) One directional sign is allowed for each one-way driveway.

(2) One directional sign is allowed for each drive-through aisle.

(3) One directional sign is allowed for each service or delivery entrance.

(4) Additional directional signs may be allowed if a need is demonstrated for proper traffic flow.
(b) **Area.** The area of each sign shall not exceed six square feet.

(c) **Height.** The height of the sign including the pole or base shall not exceed four feet from grade to the top of the sign.

(d) **Location.**
   
   (1) The sign shall be setback from any property line at least five feet.
   
   (2) The sign shall not be located so as to impair the vision of the driver of a vehicle traveling either into, out of, or through the site.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-59. - Directory signs.

(a) **Number.** Each building with more than two tenants is allowed one directory sign per primary entrance.

(b) **Area.** The area of the sign shall not exceed 16 square feet.

(c) **Height.** The height of the sign, including the pole and base, shall not exceed six feet from grade to the top of the sign.

(d) **Location.**
   
   (1) The sign may be outside the building at least 15 feet from any property line.
   
   (2) The sign shall be located within ten feet of the building.
   
   (3) The sign shall not be located so as to impair the vision of the driver of a vehicle traveling either into, out of, or through the site.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-60. - Under canopy signs.

(a) **Number.** Each use is allowed one under canopy sign.

(b) **Area.** The area of an under canopy sign shall not exceed six square feet.

(c) **Location.**
   
   (1) Any under canopy sign shall have a minimum vertical clearance of eight feet from the sidewalk or grade to the bottom of the under canopy sign.
   
   (2) The sign and copy shall be perpendicular to the building.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-61. - Menu/order board signs.

(a) **Number.** Every business with a drive-through restaurant facility is allowed two menu/order board signs.

(b) **Area.** The area of each sign shall not exceed 50 square feet.

(c) **Height.** The height of the sign including the pole or base shall not exceed six feet from grade to the top of the sign.

(d) **Location.**
(1) All portions of the sign shall be at least 15 feet from the property line.
(2) The sign shall be located adjacent to the drive-through aisle.
(3) The sign shall not be located as to impair the vision of the driver of a vehicle traveling either into, out of, or through the drive-through aisle.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-62. - Gasoline service stations.

In addition to the signs allowed by the underlying zoning districts, the following signs are allowed:

(1) Signs that are an integral part of the gasoline dispenser (pump). Changeable advertising signs shall not be considered an integral part of the dispenser.
(2) Signs identifying the location or operation of, including but not limited to, vacuum, air, ice, telephone, car wash, propane, self-serve, full serve, operating instructions and safety instructions shall not exceed six square feet.
(3) Gasoline price or other advertisement not to exceed two square feet per pump. Such signs must be located on or within five feet of the pump island.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-63. - Window signs.

Window signs may be placed within a building, not to exceed 30 percent of the total window area with a maximum area of 80 square feet per street frontage.

(Ord. No. 1641, § 1641.02, 1-10-96)

Secs. 18.5-64—18.5-75. - Reserved.

DIVISION 3. - BUILDING COMPLEX SIGNS

Sec. 18.5-76. - Comprehensive sign plan required.

Building complex signs must be in compliance with the comprehensive sign plan approved by the city.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-77. - General.

All signs allowed by the underlying zoning district may be allowed.

(Ord. No. 1641, § 1641.02, 1-10-96)

Sec. 18.5-78. - Additional freestanding signs.

Each primary entrance into the building complex may be allowed one additional freestanding sign. The height and location should be consistent with the underlying zoning district regulations. The maximum allowable area should not exceed 80 square feet.
(Ord. No. 1641, § 1641.02, 1-10-96)

Secs. 18.5-79—18.5-85. - Reserved.

DIVISION 4. - RESIDENTIAL DISTRICTS R-1, R-2, R-4 AND R-4(MX)

Sec. 18.5-86. - Institutional and commercial recreation signs.

(a) Freestanding signs.
   (1) Number. Each facility may have one freestanding sign per street frontage.
   (2) Area. The area of each sign shall not exceed 60 square feet.
   (3) Location. All portions of the sign shall be at least 15 feet from the property line.
   (4) Height. The maximum height shall be eight feet with a minimum two-foot high base.
   (5) Design. Freestanding signs shall be attached to a base which is at least 75 percent of the width
       of the sign but shall not exceed the width of the sign by more than 20 percent. The base shall
       be constructed of class I materials that match those used on the building for which the sign is
       installed.

(b) Wall signs.
   (1) Number. Any number of wall signs may be installed on a wall.
   (2) Area. The total area of all wall signs on any wall shall not exceed eight percent of the wall area
       with a maximum allowable area of 60 square feet.
   (3) Location. Wall signs may be placed only on walls facing the street frontage.
   (4) Lighting. Signs shall not be internally lit.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1679, § 1679.02, 8-13-98; Ord. No. 1816, §
1816.01, 3-11-2009)

Sec. 18.5-87. - Historic re-use.

(a) Freestanding signs.
   (1) Number. Each historic re-use may have one freestanding sign.
   (2) Area. The area of each sign shall not exceed eight square feet.
   (3) Location. All portions of the sign shall be at least 15 feet from the property line.
   (4) Height. The maximum height shall be six feet.

(Ord. No. 1679, § 1679.02, 8-13-98; Ord. No. 1816, § 1816.01, 3-11-2009)

Sec. 18.5-88. - Entrance monuments.

(a) Number. One entrance monument is permitted per street frontage per addition.

(b) Location. If the entrance monument is located in the public right-of-way, a license agreement shall
    be obtained from the appropriate jurisdiction.

(c) Setbacks.
(1) *Center island monuments.* Minimum setbacks for center island monuments are five feet from the curb.

(2) *Non-island monuments.* Minimum setbacks for non-island monuments are ten feet from all property lines. Retaining walls and fences may be located on the property line.

(d) *Height.* Maximum sign height is ten feet.

(e) *Area.* Maximum sign area is 24 square feet.

(f) *Lighting.* Signs shall not be internally lit.

(Ord. No. 1816, § 1816.01, 3-11-2009)

Secs. 18.5-89—18.5-95. - Reserved.

DIVISION 5. - TEMPORARY SIGNS

Sec. 18.5-96. - Temporary event signs.

(a) The purpose of the temporary event sign regulations is to provide a method for businesses, institutions, and non-profit organizations to promote an event for a limited time through the use of temporary signage.

(b) Temporary event signs are allowed subject to the following:

(1) *Nonresidential zoning districts.*

   a. A permit is required.

      *Exception.* Temporary outdoor events permits as required by subsection 24-46(a)(8)c. shall double as a temporary event sign permit for the nonprofit event.

   b. Temporary event signs shall be allowed for not more than 20 days per calendar year with the following exceptions:

      1. Businesses or developments new to their location shall be allowed an additional five days within 12 months of their opening.

   c. *Number.* Not more than any combination of four of the following are allowed for each event:

      1. Banners not more than 80 square feet each.
      2. Pennants not more than 200 lineal feet per string. Each string shall count as one sign.
      3. Flying signs (blimps) not more than 100 feet off the ground.
      4. Air inflated devices on the ground and not attached to or on the building not exceeding 40 feet in height.
      5. Search lights.
      6. Other signs approved by the city.

(2) *Residential zoning districts.*

   a. Institutions and nonprofit organizations may have temporary event signs subject to the following:

      1. A permit is required.

      2. *Number.* Not more than any combination of two of the following are allowed for each event.

         i. Banners not more than 80 square feet.
ii. Pennants not more than 200 lineal feet per string. Each string shall count as one sign.

iii. Other signs approved by the city.

(3) Location. All signs must be located on-site and not less than 15 feet from the back of the curb or shoulder of the road.

Exception. Signs internal to a site and located on a sidewalk or within a landscaped island shall have a setback from the back of curb equal to the height of the sign.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009; Ord. No. 1962, § 2, 6-26-2019)

Sec. 18.5-97. - Banners.

(a) Purpose. The purpose of this section is to allow businesses and institutional uses an opportunity to erect temporary signage and to establish standards for said signage.

(b) Banners may be permitted in nonresidential zoning districts and on institutional use sites within residential zoning districts subject to the following:

(1) Number. One banner per building or per tenant space in multitenant buildings with individual exterior entrances may be erected.

(2) Area.

a. The least restrictive of [subsections 18.5-97(b)(2)a.|1. or 18.5-97(b)(2)a.|2. may be used for allowable area.

1. The total area of the banner shall not exceed 32 square feet; or

2. The total area of the banner shall not exceed five percent of the area of the wall to which it is attached with a maximum allowable area of 80 square feet.

b. The allowable area of a banner for a tenant space wall within a multitenant building with individual entrances from the outside shall be calculated based on the exterior wall area of the space the tenant occupies.

(3) Location. Banners must be securely fastened on a building wall.

Exception. Up to two banners, not exceeding 32 square feet each, may be securely fastened on a construction site fence, building wall or a freestanding sign base with a solid backing in place of signage allowed by subsections 18.5-19(3) and/or 18.5-19(21). Height, duration, and setback requirements shall default to the corresponding Code section.

(4) Maintenance. Banners shall be maintained taut and in good condition.

Exceptions. Banners permitted through a temporary event sign permit and secured to a tent, inflatable device, or other temporary surface that may not allow a taut installation shall be acceptable provided all other banner requirements are in compliance.

(5) Duration. Banners may be erected up to six months per calendar year.

(6) Permit. A permit shall be obtained prior to erecting a banner.

Exception. Banners allowed per subsection 18.5-19(23).

(Ord. No. 1816, § 1816.01, 3-11-2009; Ord. No. 1962, § 3, 6-26-2019)

Secs. 18.5-98—18.5-105. - Reserved.
DIVISION 6. - SIGNS IN RIGHT-OF-WAY

Sec. 18.5-106. - Removal.

The city may remove signs installed in or encroaching upon the public road right-of-way or public property pursuant to M.S. § 160.27, Subd. 6.

(Ord. No. 1641, § 1641.02, 1-10-96)

Secs. 18.5-107—18.5-115. - Reserved.

DIVISION 7. - MAINTENANCE

Sec. 18.5-116. - Required.

(a) All signs, supports and accessories shall be structurally sound and safe and kept in good repair.

(b) The sign shall be properly surface coated and the display surfaces shall be properly painted, pasted and maintained.

(Ord. No. 1641, § 1641.02, 1-10-96)

Secs. 18.5-117—18.5-125. - Reserved.

DIVISION 8. - NONCONFORMING SIGNS

Sec. 18.5-126. - Legal pre-existing signs.

(a) Nonconforming permanent signs. Nonconforming permanent signs lawfully existing on the effective date of this chapter shall be allowed to continue in use, but shall not be rebuilt, relocated or altered, other than to change the message; without being brought into compliance with this chapter. After a nonconforming sign has been removed, it shall not be replaced by another nonconforming sign.

Exception: Nonconforming permanent wall signs may be repaired or replaced with another sign advertising the same business name provided the repair or replacement does not increase the nonconforming aspect of the sign.

(b) Nonconforming temporary signs.

(1) Nonconforming temporary off-site freestanding signs (freeway billboards) on undeveloped property abutting the freeway lawfully existing on the effective date of this chapter shall be removed by the effective date of this chapter plus three years or when the property develops, whichever comes first. Nonconforming temporary off-site freestanding signs shall not be rebuilt, relocated, or altered other than to change a message.

(2) Nonconforming temporary signs existing on the effective date of this chapter shall be brought into compliance within 60 days from the effective date of this chapter.

(c) Use discontinued. Whenever use of a nonconforming sign has been discontinued for a period of 90 days, the nonconforming sign shall be removed or brought into compliance with this chapter.

(Ord. No. 1641, § 1641.02, 1-10-96; Ord. No. 1816, § 1816.01, 3-11-2009)
f. The maximum height of any portion of the sign, including trim and extensions, shall not be more than fifty feet (50').

D. Off-premise Signs. The following off-premise signs shall be permitted:
   a. Billboards (see previous section for standards);
   b. Signs allowed within the right-of-way of state highways per applicable Minnesota Department of Transportation regulations;
   c. City sponsored directional signs for wayfinding;
   d. Seasonal, non-commercial event or non-commercial activity signs;
      i. Installed not more than twenty-five (25) days prior to an event or activity and removed within five (5) days following the event or activity and not to exceed thirty-five (35) days total;
      ii. Limited to four (4) permits per year, per property;
      iii. Limited to forty-eight (48) square feet per sign;
      iv. Not allowed in residential districts;
      v. Not allowed in the right-of-way or to cause visual obstruction for motorists;
      vi. Sign shall not be illuminated;
      vii. Limited to three (3) signs per permit, three (3) properties per event.
   e. Ballparks and Arenas
      i. Sign must face event attendees, and not be visible from the public right of way.
      ii. Sign shall not be illuminated.
   f. Directional Sandwich board signs in the Central Business District;
      i. Permitted on sidewalks only during business hours and within the block the business is located;
      ii. Shall not extend more than three feet (3') into the sidewalk area while leaving a minimum three-foot (3') wide open path and not cause visual obstruction for motorists;
      iii. Limited to one (1) sandwich board per property;
      iv. Limited to three and one-half (3 ¹/₂) feet in height, two (2) feet in width, and two (2) feet in depth;
      v. Sign shall be freestanding, not attached to any other structure or device;
      vi. Shall not be illuminated.

E. Non-Commercial or Public Service Signs. Off-premises, non-commercial signs, or signs referring to the presence of, and meeting times or locations of, not-for-profit community organizations are allowed. Signs That Need a Zoning Permit.

SECTION 10.500.0316. Signs That Are Not Allowed:
   A. Roof signs. No sign is permitted to be placed upon or attached to the roof of a building.

   B. Right-of-way signs and signs on public property. No sign unless erected by, or required by, a government agency or temporarily erected to protect the health and safety of the general public, such as emergency or warning signs, shall be located within or above any public rights-of-way, or on any public property or utility pole. Projecting wall signs and temporary signs complying with other provisions of this ordinance are an exception.

   C. Confusing or traffic-interfering signs. Signs which are of a size, shape, color, location, movement, content, or manner of illumination which may be confused with
Walker Planning Commission Agenda Item

Planning Commission Meeting Date: December 30th, 2019

Agenda Item No. 11: Review and consider recommending to City Council to call for a public hearing on Ordinance or Fee Schedule adoption 'in lieu of land dedication for cash payments on PUDs'

Staff Consideration: Our current Ordinance does allow for park dedication as required by the planning commission. Although it states in our PUD Ordinance that we require park dedication, we do not have a cash option spelled out in the Ordinance.

The Planning Commission should consider adoption of an ordinance or Fee schedule adoption for cash payments in lieu of land dedication. If the planning commission would recommend calling for a public hearing the hearing could be scheduled at the next planning commission meeting on January 27th, 2020 and for final council adoption at the February 3rd, 2020 Council meeting.

Information: According to the League of Minnesota Cities Information Memo in regards to Subdivision Guide for Cities:

Park dedication fees must be established by ordinance or a fee schedule that meets the requirements of state statute. Fees must be based upon the average fair market value of land within the area.

Cities that collect less than $5,000 per year in land use and development fees (we collect less than that) may use a fee schedule adopted by city resolution; however the fee schedule must be adopted in Ordinance form for which there has been 10 days published noticed.

The League has a sample methodology for park dedication. Attached is staff research for example purposes based on rough estimates.

The planning commission can decide if they would like to consider changing the fee schedule only or adding provisions and adopting an entire ordinance.

I have found rough comparison to show based on fee schedule. The City of Nisswa has it included on their fee schedule by referencing their ordinance that regulates ‘Dedication to the Public-Standards’.

Attachments: Relevant pages 28-31, League of MN cities subdivision guide and sample park dedication methodology
Park dedication fees comparison
City of Nisswa Ordinance
Staff responses (in red) to park dedication methodology
MN Statute 462.358 Official controls: Subdivision Regulation; dedication.

12302019 in lieu of land dedication fee schedule
RELEVANT LINKS:

Minn. Stat. § 462.358, subd. 2b. Collis v. City of Bloomington, 310 Minn. 5, 246 N.W.2d 19 (Minn. 1976).
Kotchcade v. City of Rochester, 537 N.W.2d 301 (Minn. Ct. App. 1995).

Finally, a well written agreement (with attention to issues of financial security) can protect the city from developers who fail to complete public improvements or abide by city requirements.

VII. Land dedication for public facilities

A subdivision ordinance may require a subdivision applicant to dedicate a reasonable portion of land within the development to the public to address infrastructure needs created by the development. Cities may require dedication of land to the public for numerous uses including the following:

- Streets, roads and alleys.
- Water, sewer, and similar facilities.
- Gas, electric, and similar facilities.
- Stormwater drainage and hold areas or ponds.
- Parks, recreational facilities, and playgrounds.
- Trails and sidewalks.
- Wetlands and wetland preservation.
- Open space.

Prior to adopting dedication requirements in a subdivision ordinance, the city must first adopt a capital improvement budget and adopt a parks and open space plan. The plan may be a component of the city comprehensive plan.

When the city requires land to be dedicated within a specific subdivision, it must determine that:

- The city reasonably needs to acquire the specific portion of land for reasons permitted by state statute (e.g. streets, parks, utilities) because of approval of the subdivision (this is sometimes referred to as a nexus requirement).

- The need created by the subdivision is roughly proportional to the city’s dedication requirement. For example, in a five-house subdivision, it may be reasonable to require dedication of park land for a small, local swing-set park. It may not be reasonable to require the same small subdivision to dedicate multiple acres for a community park serving hundreds of city residents.
The city must also give due consideration to whether the need for the
dedicated land has not already been offset or obviated by other actions of the
developer in setting aside for public use other open space, recreational,
common areas, or other facilities within the development.

A dedication of land to the public is usually reflected on the plat document or
in an easement or other deed document. When park land is dedicated to the
public, the dedication conveys complete ownership to the city (known as “fee
title”). Land for streets, roads, alleys, trails, and other public ways dedicated
to the public conveys an easement only to the city for the dedicated purposes.
Land dedicated for all other uses is conveyed to the city “in trust” for the
dedicated use.

Land which has been previously subdivided and from which a park
dedication has been received, is exempted by state statute from further
dedication requirements if a re-subdivision creates the same number of lots.
Where new lots are created, a park dedication fee may be applied only to the
net increase in lots.

A. Cash payments in lieu of land dedication

In lieu of land dedication for parks, recreational facilities, playgrounds, trails,
wetlands, or open space, cities may require a developer to pay “cash fees”
i.e., an equivalent value of money, commonly referred to as “park dedication
fees” and/or “trail fees” (cumulatively referred to as park dedication fees in
the rest of this memo). Park dedication fees excuse a developer from a local
land dedication for park and recreational purposes, but still allow the city to
purchase and acquire new off-site facilities to serve needs created by the
subdivision.

When a city establishes and imposes a park dedication fee, in lieu of land
dedications, it must still comply with all the requirements discussed above
for land dedications related to procedure, nexus, and proportionality.

In collecting park dedication fees, the city must give due consideration the
park and recreational facilities that the applicant already proposes to
incorporate into the development for public use. For example, if the proposed
development already includes park and trail facilities for residents, it may be
more difficult to justify an additional cash fee.

1. Setting park dedication fees

Park dedication fees must be established by ordinance or a fee schedule that
meets the requirements of state statute. Fees must be set based upon the
average fair market value of land within the area:
RELEVANT LINKS:

- That is unplatted.
- For which park fees have not been paid.
- That is to be served at the time of final approval or will be served under the city’s comprehensive plan by city sanitary sewer and water.

“Fair market value” means the value of the land as determined by the municipality annually based on tax valuation or other relevant data. If the applicant objects to the city’s calculation of valuation, then the value must be as negotiated between the city and the applicant, or based on the market value as determined by the city based on an independent appraisal of land in a same or similar land use category.

Cities may wish to retain the services of a land appraiser or some other professional to help them determine the appropriate rate for their park dedication fees.

2. Fee schedules

Park dedication fees may generally be imposed only by ordinance. However, cities that collect less than $5,000 per year in land use and development fees (this includes all subdivision and zoning fees) may use a fee schedule adopted by city resolution.

Prior to adoption of the resolution, the city must hold a public hearing on the fee schedule with 10 days published notice. Cities that collect over $5,000 in land use fees per year may also use a fee schedule.

However, the fee schedule must be adopted in ordinance form, following a public hearing for which there has been 10 days published notice.

3. Fee accounting and disputes

Park dedication fees must be placed in a special, segregated fund. Park dedication fees can only be used for the acquisition, development, and improvement of parks, recreational facilities, playgrounds, trails, wetland, and open space based upon the city-approved park systems plan. Park dedication fees cannot be used for the city operational or maintenance costs, such as lawn mowing or garbage pick-up.

a. Fee disputes

Cities may not condition approval of a subdivision application upon a waiver of applicant rights to challenge city fees in a law suit.

An applicant who disputes a park dedication fee, may request that the application be processed as if the fee had been paid. An applicant who disputes a fee, but still wishes to have the application processed must do all the following:
- Provide written notice to the city of his or her dispute over the city’s fee.
- Place in escrow for the city the disputed fee amount.
- File an appeal in court of the city’s fee using the procedures specified in statute within 60 days of the approval/denial of the application.

If an applicant does not appeal the fee by filing suit in a court of law within 60 days following approval/denial or if the applicant appeals but does not prevail in his or her request to have the fee overturned, the fee held in the escrow account must be paid to the city.

**VIII. Subdivision ordinance enforcement**

Cities have numerous strong tools to enforce the requirements of their subdivision ordinances. Some of these tools are discussed here.

**A. Sellers and buyers disclosure requirements**

Whenever a landowner seeks to convey land (through a metes and bounds description or in reference to a plat) that has not previously been filed or recorded, state law requires the seller to make certain disclosures to protect buyers from illegal subdivisions.

If the newly recorded land is the result of a subdivision, the seller must attach one of the following to the instrument of conveyance:

- A recordable certification by the clerk of the municipality that the city’s subdivision regulations do not apply, or that the subdivision has been approved by the governing body, or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality.
- A statement which names and identifies the location of the appropriate municipal offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, non-applicability, or waiver from the municipality.

A buyer who purchases illegally subdivided land may bring a lawsuit against the seller alleging misrepresentation of or the failure to disclose material facts under this statute.

A buyer with a successful lawsuit may be awarded damages, reasonable costs and fees (including attorney fees), and punitive damages up to five percent of the purchase price of the land.
Appendix A: Sample Park Dedication Methodology

(This is a sample of one methodology; a city is not required to take it into account.)

Step 1.
The city should conduct a parks study to generally determine what it would like to see in the community regarding parks, recreation, trails, and open space. That study should consider whether current facilities are sufficient to meet the needs of current residents. If there is a deficiency, the city should calculate what additional expenditures would be necessary to meet that city's desired parks plan.

Step 2.
The city should calculate the total amount of city parks, recreation, trails and open space, plus any additional amount to meet current, but unmet park goals.

Step 3.
The city should evaluate usage of city parks, recreation, trails, and open space with a goal of estimating the percentage of facilities that exist to serve residential landowners and percentage that exists to serve the needs of commercial development. In arriving at these percentages, it is helpful to consider the use of park facilities by businesses and their workers and the use by sports teams that may be sponsored by businesses. From this analysis, the city will be able to identify the percentage of its parks needs that should be met by residential development and what percentage should be met by commercial/industrial development.

Step 4.
The city then will use the results of step 2 and step 3 to calculate parkland acreage, per resident or per employee. The following examples may be helpful:

Per Capita Residential Share/Per Capita Commercial Share

Existing Park Lane and Trail Acreage
300 acres

Residential Share
90% X 300 = 270 Acres

Per Capita Residential Share
270 acres/15,000 residents (population) = .018 acres per Resident

Commercial Share
10% X 300 = 30 acres
Per Capita Commercial Share
30 acres/1000 employees in city = .03 acres per Employee

Step 5.
Establish park dedications by ordinance. The amount of land to be dedicated as part of residential subdivision or plat will be equal to the per acre residential share (determined in Step 4) times the number of residents expected in the development or subdivision. To arrive at an amount in lieu of land dedication, take the per acre value of undeveloped land times the amount of land the city could have required to be dedicated.

Step 6.
To calculate the amount to be dedicated as part of a commercial development, multiply the per acre commercial share (determined in Step 4) by the number of employees expected in the development. To arrive at a cash payment in lieu of land dedication, take the per acre value of undeveloped commercial land times the amount of land the city could have required to be dedicated.

Step 7.
Make provisions in your ordinance to provide that these are the maximum amounts the city can charge and give the council discretion to vary from these requirements as a result of unique attributes of the development or to account for parks or open space that may already be included the development. (Note: The city is not required to take any of these considerations into account when arriving at the park dedication amount.)
<table>
<thead>
<tr>
<th>City</th>
<th>Population</th>
<th>Fees in lieu of Park Land Dedication</th>
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| Red Wing   | 16,412     | Apartments and townhouses-$225 per bedroom  
|            |            | Double family dwelling-$500 per unit  
|            |            | Single family dwelling-$525 per unit  
|            |            | Commercial/Industrial subdivisions-$1,450 per gross acre of development |
| Bemidji    | 15,366     | Residential- $50,000 per acre  
|            |            | Commercial-$20,000 per acre                                                   |
| Baxter     | 7,610      | Residential- 10% land or $1,800 per unit  
|            |            | Commercial-5% land or cash (total sq. ft. x 5% x $5/sq. ft.)  
|            |            | Office/Service- 5% land or cash (total sq. ft. x 5% x $3.50/sq.ft)  
|            |            | Industrial- 5% land or cash (total sq. ft. x 5% x $2.25/ sq.ft.)             |
| Greenfield | 2,777      | Residential-$3,500/dwelling unit                                      
|            |            | Commercial-$5,000 for first acre or portion plus $1,000/acre or portion thereafter |
| Nisswa     | 2,054      | Residential-.016 acres per resident or $416 per resident  
|            |            | Commercial- none for commercial                                               |
4.11.10 Dedication to the Public – Standards

A. In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the sub divider shall dedicate, to the public, lands for highway rights-of-way, street rights-of-way, utility easements, wetland easements, and similar lands required for perpetual and public improvements.

B. The City of Nisswa finds it in the public interest and necessary to provide future parks, trails and other public open and recreational spaces for the citizens of Nisswa. As such, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the City Council, with the recommendation of the Planning Commission, shall require a payment or dedication to the City of any one of the following, to be reviewed on an annual basis at the beginning of each calendar year:

1. A reasonable portion of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space, up to 0.016 acres per expected resident in the proposed development, using the most recent average household size as determined by the Minnesota State Demographer’s Office and the U.S. Census Bureau.
2. A payment of up to $416 per expected resident in the proposed subdivision, using the most recent average household size as determined by the Minnesota State Demographer’s Office and the U.S. Census Bureau.
3. A combination of land dedication and cash payment to the City for parks and open space purposes that reflects the values contained herein and in the City’s Comprehensive Plan.

C. The amount of land and/or payment shall be set by the City Council, from the recommendation of the Planning Commission, after taking into consideration the open space, park, recreational, or common areas facilities which the applicant proposes to reserve for public use within the subdivision. The City shall grant preference to payment in lieu of land dedication unless an area within the land to be platted has been identified by the City for park acquisition. The following factors shall be taken into consideration when reviewing potential lands for park dedication:

1. The suitability of the land for its intended purpose.
2. The future needs of the community regarding parks, trails, and open spaces.
3. The amount of any fees imposed, consistent with the requirements and limitations contained in this Section.
4. Whether the land is adjacent to or near other public recreation lands.
5. Whether there is an opportunity to extend an existing or proposed trail or to enlarge an existing or proposed park or recreational facility.
6. Whether the land dedication would protect environmentally or historically significant or sensitive sites.
7. Whether the land dedication provides a unique public benefit or contains unique natural features.

D. Where private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision or owners of the development, the Planning Commission may consider granting a
credit for park dedication. A credit of up to 2.5% of the buildable area of the proposed open space may be given provided that the following conditions are met:

1. The land area designated as open space and used in the calculation of the 2.5%-credit shall not include any area that is otherwise considered unbuiltable, including, but not limited to, wetlands, steep slopes exceeding 12%, and the area within setbacks from property lines, required buffer zones, bluffs, and the ordinary high water mark, among others.

2. The land area designated as open space within the development is not occupied by non-recreational buildings, such as maintenance or caretaking buildings, and is available for use to all residents of the proposed subdivision.

3. The use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the development and which cannot be defeated or eliminated without the consent of the City of Nisswa.

4. The area required to obtain increased densities shall not be included in the computation of such private open space.

E. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358 Subdivision 2b, of the Minnesota Statutes.

F. All land dedication pursuant to this Ordinance shall be conveyed to the City through a Warranty Deed drafted by the City Attorney.

4.12 PART 12 - COMMUNICATIONS TOWERS

4.12.1 Purpose and Intent

The purpose of this performance standard is to establish predictable and balanced regulations for the siting, screening, construction and engineering of wireless communication equipment in order to accommodate the growth of wireless communication systems within the City of Nisswa, while protecting the public from adverse impacts on the City's aesthetic resources, and protecting the public welfare by:

1. Providing for the appropriate location and development of communication towers to serve the residents and businesses in the City of Nisswa;

2. Minimizing adverse visual impact of towers through careful design, siting, and vegetation screening;

3. Avoiding potential damage to adjacent properties from tower failure through engineering and careful siting of the tower structure;

4. Maximizing the use of any new tower structure to reduce the number of towers needed;

Appendix A: Sample Park Dedication Methodology

**STAFF RESEARCH IS SHOWN IN RED**

(This is a sample of one methodology; a city is not required to take it into account.)

Step 1.
The city should conduct a parks study to generally determine what it would like to see in the community regarding parks, recreation, trails, and open space. That study should consider whether current facilities are sufficient to meet the needs of current residents. If there is a deficiency, the city should calculate what additional expenditures would be necessary to meet that city’s desired parks plan.

According to the 2014 master park plan $516,000

Step 2.
The city should calculate the total amount of city parks, recreation, trails and open space, plus any additional amount to meet current, but unmet park goals.

*(These are estimates of sq. ft. based on Cass County mapping)*

Walker City Park 425,770 sq. ft.
South Park (Mini Golf area) 36,479 sq. ft.
City Hall Rock Garden 16,445 sq. ft.
Trail by Walker Bay Blvd 164,793 sq. ft.
Trail middle of Town 91,449 sq. ft.
Trail by Cochrans 15,191 sq. ft.
Lake May Beach area and back ½ of City owned lot 20,742 sq. ft.
Chumley Park (by bank) 46,318 sq. ft.

Total 725,738 sq ft = 16.66 Acres

Step 3.
The city should evaluate usage of city parks, recreation, trails, and open space with a goal of estimating the percentage of facilities that exist to serve residential landowners and percentage that exists to serve the needs of commercial development. In arriving at these percentages, it is helpful to consider the use of park facilities by businesses and their workers and the use by sports teams that may be sponsored by businesses. From this analysis, the city will be able to identify the percentage of its parks needs that should be met by residential development and what percentage should be met by commercial/industrial development.

90% Residential
10% Commercial

**OR**

50% Residential
50% Commercial
Step 4.
The city then will use the results of step 2 and step 3 to calculate parkland acreage, per resident or per employee. The following examples may be helpful:
Per Capita Residential Share/Per Capita Commercial Share
Existing Park Lane and Trail Acreage

300 acres 16.66 Acres

Residential Share

90% x 300 = 270 Acres 90% x 16.66 = 14.99 acres

Or

50% x 16.66 = 8.33 acres

Per Capita Residential Share

270 acres/15,000 residents (population) = .018 acres per Resident

14.99 acres/941 residents (Walker population) = .015 acres per Resident

Or

8.33 acres/941 residents (Walker population) = .008 acres per Resident

Commercial Share

10% x 300 = 30 acres

10% x 16.66 = 1.66 acres

Or

50% x 16.66 = 8.33 acres

Per Capita Commercial Share

30 acres/1000 employees in city = .03 acres per Employee

1.66 acres/100 employees in city = .016 acres per Employee
Step 5.
Establish park dedications by ordinance. The amount of land to be dedicated as part of residential subdivision or plat will be equal to the per acre residential share (determined in Step 4) times the number of residents expected in the development or subdivision. To arrive at an amount in lieu of land dedication, take the per acre value of undeveloped land times the amount of land the city could have required to be dedicated.

(90%) .015 acres per Resident x 75 (residents) = 1.13 acres

Or

(50%) .008 acres per Resident x 75 (residents) = .60 acres

IN LIEU OF LAND DEDICATION:

$106,400/55.8 acres = $1,906.81 per acre value

$1,906.81 per acre value x 50% = $953.41 in lieu of land dedication

OR?

55.8 acres/2 = 27.9 acres

$1,906.81 per acre x 27.9 acres = $53,199.99

Step 6.
To calculate the amount to be dedicated as part of a commercial development, multiply the per acre commercial share (determined in Step 4) by the number of employees expected in the development. To arrive at a cash payment in lieu of land dedication, take the per acre value of undeveloped commercial land times the amount of land the city could have required to be dedicated.

Same as above

Step 7.
Make provisions in your ordinance to provide that these are the maximum amounts the city can charge and give the council discretion to vary from these requirements as a result of unique attributes of the development or to account for parks or open space that may already be included the development. (Note: The city is not required to take any of these considerations into account when arriving at the park dedication amount.)
462.358 OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.

Subdivision 1. [Repealed, 1980 c 566 s 35]

Subd. 1a. Authority. To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the subdivision of land equal distance from its boundaries within this area.

Subd. 2. [Repealed, 1980 c 566 s 35]

Subd. 2a. Terms of regulations. The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design of sites; access to solar energy; and the protection and conservation of floodplains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The regulations shall require that subdivisions be consistent with the municipality's official map if one exists and its zoning ordinance, and may require consistency with other official controls and the comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent with the comprehensive plan and the purposes of this section, particularly the preservation of agricultural lands. The regulations may prohibit, restrict or control development for the purpose of protecting and assuring access to direct sunlight for solar energy systems. The regulations may prohibit the issuance of permits or approvals for any tracts, lots, or parcels for which required subdivision approval has not been obtained.

The regulations may permit the municipality to condition its approval on the construction and installation of sewers, streets, electric, gas, drainage, and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, bond, or other financial security in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. Sections 471.345 and 574.26 do not apply to improvements made by a subdivider or a subdivider's contractor.

A municipality may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the municipality for direct costs relating to professional services provided during the review, approval and inspection of the project. A municipality may only charge the applicant a rate equal to the value of the service to the municipality. Services provided by municipal staff or contract professionals must be billed at an established rate.

When the applicant vouches, by certified letter to the municipality, that the conditions required by the municipality for approval under this subdivision have been satisfied, the municipality has 30 days to release
and return to the applicant any and all financial securities tied to the requirements. If the municipality fails to release and return the letters of credit within the 30-day period, any interest accrued will be paid to the applicant. If the municipality determines that the conditions required for approval under this subdivision have not been satisfied, the municipality must send written notice within seven business days upon receipt of the certified letter indicating to the applicant which specific conditions have not been met. The municipality shall require a maintenance or performance bond from any subcontractor that has not yet completed all remaining requirements of the municipality.

The regulations may permit the municipality to condition its approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval. The municipality may enforce such agreements and conditions by appropriate legal and equitable remedies.

Subd. 2b. Dedication. (a) The regulations may require that a reasonable portion of the buildable land, as defined by municipal ordinance, of any proposed subdivision be dedicated to the public or preserved for public use as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities as defined in section 471.191, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance or under the procedures established in section 462.353, subdivision 4a.

(b) If a municipality adopts the ordinance or proceeds under section 462.353, subdivision 4a, as required by paragraph (a), the municipality must adopt a capital improvement budget and have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and paragraphs (c) to (i).

(c) The municipality may choose to accept a cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision, based on the average fair market value of the unplatted land for which park fees have not already been paid that is, no later than at the time of final approval or under the city's adopted comprehensive plan, to be served by municipal sanitary sewer and water service or community septic and private well as authorized by state law. For purposes of redevelopment on developed land, the municipality may choose to accept a cash fee based on fair market value of the land no later than the time of final approval. "Fair market value" means the value of the land as determined by the municipality annually based on tax valuation or other relevant data. If the municipality's calculation of valuation is objected to by the applicant, then the value shall be as negotiated between the municipality and the applicant, or based on the market value as determined by the municipality based on an independent appraisal of land in a same or similar land use category.

(d) In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

(e) The municipality must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.

(f) Cash payments received must be placed by the municipality in a special fund to be used only for the purposes for which the money was obtained.

(g) Cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park systems plan. Cash payments must not be used for ongoing operation or maintenance of parks, recreational facilities, playgrounds, trails, wetlands, or open space.
(h) The municipality must not deny the approval of a subdivision based solely on an inadequate supply of parks, open spaces, trails, or recreational facilities within the municipality.

(i) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per-lot cash fee must apply only to the net increase of lots.

Subd. 2c. *Nexus.* (a) There must be an essential nexus between the fees or dedication imposed under subdivision 2b and the municipal purpose sought to be achieved by the fee or dedication. The fee or dedication must bear a rough proportionality to the need created by the proposed subdivision or development.

(b) If a municipality is given written notice of a dispute over a proposed fee in lieu of dedication before the municipality's final decision on an application, a municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee in lieu of dedication.

(c) An application may proceed as if the fee had been paid, pending a decision on the appeal of a dispute over a proposed fee in lieu of dedication, if (1) the person aggrieved by the fee puts the municipality on written notice of a dispute over a proposed fee in lieu of dedication, (2) prior to the municipality's final decision on the application, the fee in lieu of dedication is deposited in escrow, and (3) the person aggrieved by the fee appeals under section 462.361, within 60 days of the approval of the application. If such an appeal is not filed by the deadline, or if the person aggrieved by the fee does not prevail on the appeal, then the funds paid into escrow must be transferred to the municipality.

Subd. 3. [Repealed, 1980 c 566 s 35]

Subd. 3a. *Platting.* The regulations may require that any subdivision creating parcels, tracts, or lots, shall be platted. The regulations shall require that all subdivisions which create five or more lots or parcels which are 2-1/2 acres or less in size shall be platted. The regulations shall not conflict with the provisions of chapter 505 but may address subjects similar and additional to those in that chapter.

Subd. 3b. *Review procedures.* The regulations shall include provisions regarding the content of applications for proposed subdivisions, the preliminary and final review and approval or disapproval of applications, and the coordination of such reviews with affected political subdivisions and state agencies. Subdivisions including lands abutting upon any existing or proposed trunk highway, county road or highway, or county state-aid highway shall also be subject to review. The regulations may provide for the consolidation of the preliminary and final review and approval or disapproval of subdivisions. Preliminary or final approval may be granted or denied for parts of subdivision applications. The regulations may delegate the authority to review proposals to the planning commission, but final approval or disapproval shall be the decision of the governing body of the municipality unless otherwise provided by law or charter. A municipality must approve a preliminary plat that meets the applicable standards and criteria contained in the municipality's zoning and subdivision regulations unless the municipality adopts written findings based on a record from the public proceedings why the application shall not be approved. The regulations shall require that a public hearing shall be held on all subdivision applications prior to preliminary approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the time and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. A subdivision application shall be preliminarily approved or disapproved within 120 days following delivery of an application completed in compliance with the municipal ordinance by the applicant to the municipality, unless an extension of the review period has been
agreed to by the applicant. When a division or subdivision to which the regulations of the municipality do not apply is presented to the city, the clerk of the municipality shall within ten days certify that the subdivision regulations of the municipality do not apply to the particular division.

If the municipality or the responsible agency of the municipality fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved, and upon demand the municipality shall execute a certificate to that effect. Following preliminary approval the applicant may request final approval by the municipality, and upon such request the municipality shall certify final approval within 60 days if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval is expressly conditioned either through performance or the execution of appropriate agreements assuring performance. If the municipality fails to certify final approval as so required, and if the applicant has complied with all conditions and requirements, the application shall be deemed finally approved, and upon demand the municipality shall execute a certificate to that effect. After final approval a subdivision may be filed or recorded.

Subd. 3c. **Effect of subdivision approval.** For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the municipality may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, a municipality may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

Subd. 4. [Repealed, 1982 c 415 s 3]

Subd. 4a. **Disclosure by seller; buyer's action for damages.** A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted municipal subdivision regulations apply, shall attach to the instrument of conveyance either: (a) recordable certification by the clerk of the municipality that the subdivision regulations do not apply, or that the subdivision has been approved by the governing body, or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the governing body of the municipality in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or (b) a statement which names and identifies the location of the appropriate municipal offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, nonapplicability, or waiver from the municipality. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this subdivision shall be grounds for damages. If the buyer establishes a right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding five per centum of the purchase price of the land.

Subd. 4b. **Restrictions on filing and recording conveyances.** (a) In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, no conveyance of land

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to which the regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after such regulations become effective.

(b) The foregoing provision does not apply to a conveyance if the land described:

(1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(2) was the subject of a written agreement to convey entered into prior to such time, or

(3) was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966, or

(4) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or

(5) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or

(6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(c) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(d) Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the municipality a penalty of not less than $100 for each lot or parcel so conveyed.

(e) A municipality may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

Subd. 5. Permits. Except as otherwise provided by this section all electric and gas distribution lines or piping, roadways, curbs, walks and other similar improvements shall be constructed only on a street, alley, or other public way or easement which is designated on an approved plat, or properly indicated on the official map of the municipality, or which has otherwise been approved by the governing body. When a municipality has adopted an official map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the official map or which has been otherwise approved by the governing body, and unless the buildings conform to the established building line. This limitation on issuing permits shall not apply to planned developments approved by the governing body pursuant to its zoning ordinance. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this section.

Subd. 6. Variances. Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be
granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

Subd. 7. Vacation. The governing body of a municipality may vacate any publicly owned utility easement or boulevard reserve or any portion thereof, which are not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes or for boulevard reserve purposes, in the same manner as vacation proceedings are conducted for streets, alleys and other public ways under a home rule charter or other provisions of law.

A boulevard reserve means an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street and which area is designated on the recorded plat as "boulevard reserve".

Subd. 8. Plat approval under other laws. Nothing in this section is to be construed as a limitation on the authority of municipalities which have not adopted subdivision regulations to approve plats under any other provision of law.

Subd. 9. Unplatted parcels. Subdivision regulations adopted by municipalities may apply to parcels which are taken from existing parcels of record by metes and bounds descriptions, and the governing body or building authority may deny the issuance of permits or approvals, building permits issued under sections 326B.101 to 326B.194, or other permits or approvals to any parcels so divided, pending compliance with subdivision regulations.

Subd. 10. Limitations. Nothing in this section shall be construed to require a municipality to regulate subdivisions or to regulate all subdivisions which it is authorized to regulate by this section.

Subd. 11. Affordable housing. For the purposes of this subdivision, a "development application" means subdivision, planned unit development, site plan, or other similar type action. If a municipality, in approving a development application that provides all or a portion of the units for persons and families of low and moderate income, so proposes, the applicant may request that provisions authorized by clauses (1) to (4) will apply to housing for persons of low and moderate income, subject to agreement between the municipality and the applicant:

(1) establishing sales prices or rents for housing affordable to low- and moderate-income households;

(2) establishing maximum income limits for initial and subsequent purchasers or renters of the affordable units;

(3) establishing means, including, but not limited to, equity sharing, or similar activities, to maintain the long-term affordability of the affordable units; and

(4) establishing a land trust agreement to maintain the long-term affordability of the affordable units.

Clauses (1) to (3) shall not apply for more than 20 years from the date of initial occupancy except where public financing or subsidy requires longer terms.

History: 1965 c 670 s 8; 1971 c 842 s 1; 1973 c 67 s 1; 1973 c 176 s 1; 1975 c 98 s 1; 1976 c 181 s 2; 1978 c 786 s 16.17; 1980 c 560 s 6; 1980 c 566 s 25-33; 1981 c 85 s 7; 1982 c 415 s 2; 1982 c 507 s 23; 1983 c 194 s 24; 1986 c 444; 1989 c 196 s 1; 1989 c 200 s 1; 1989 c 209 art 2 s 1; 1995 c 254 art 1 s 90; art 3 s 6.7; 2000 c 497 s 1; 2001 c 7 s 74; 2002 c 315 s 1; 2004 c 178 s 2.3; 2006 c 209 s 1; 2006 c 269 s 1; 2006 c 270 art 1 s 6; 2007 c 116 s 1; 2007 c 140 art 4 s 61; art 13 s 4; 2013 c 85 art 5 s 41
Property Owner: City of Walker
Item: Annexation request and Zoning Designation
Zoning Classification: TBD

Request: To request that the Walker City Council consider approval to have staff start the annexation process and the zoning designation for the PID # 38-357-0004; land owned by the City of Walker. Also to request that the Walker City Council consider approval of the land to be annexed in with the zoning classification of PUBLIC.

Background: Said property was a land exchange between Hawkinson Construction and the City of Walker. The City exchanged Tract B for a 395 foot strip of land known as Tract D. The property abuts parcels where the Sewer Ponds are located. The land exchange was approved by City Council on April 3rd, 2017; recently finalized by the recording of the Land Deed.

The parcel has not yet been assigned a City of Walker Parcel ID number. The legal description for the parcel is as follows:

TRACT D, REGISTERED LAND SURVEY NO. 74

Proposed Notices:
No public hearing needed; Minnesota Statute 414.033 Subd. 2. (1) the land is owned by the municipality.

Applicable Annexation Regulations by State Statute:

Minnesota State Statutes 2019
414.033 ANNEXATION BY ORDINANCE.
Subdivision 1.Unincorporated property.

Unincorporated property abutting a municipality may be annexed to the municipality by ordinance as provided for in this section.
§Subd. 2.Conditions.

A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:
(1) the land is owned by the municipality;
(2) the land is completely surrounded by land within the municipal limits;
(3) the land abuts the municipality and the area to be annexed is 120 acres or less, and the area to be annexed is not presently served by public wastewater facilities or public wastewater facilities are not otherwise available, and the municipality receives a petition for annexation from all the property owners of the land. Except as provided for by an orderly annexation agreement, this clause may not be used to annex any property contiguous to any property either simultaneously proposed to be or previously
annexed under this clause within the preceding 12 months if the property is or has been owned at any point during that period by the same owners and annexation would cumulatively exceed 120 acres; or (4) the land has been approved after August 1, 1995, by a preliminary plat or final plat for subdivision to provide residential lots that average 21,780 square feet or less in area and the land is located within two miles of the municipal limits.
Subd. 2a.

[Repealed, 1997 c 202 art 5 s 9]

City of Walker Applicable Zoning Regulations:

ARTICLE III. - ZONING DISTRICTS AND USE STANDARDS
Sec. 109-80. - Zoning districts.
(c) Districts established. The following districts are hereby established:

(Applicable established districts in relation to this zoning classification)

(10) Public (P). Public uses of land not oriented towards recreation and open space. Typical uses may include federal, state, or local government offices, schools, or utilities.

Applicable Minnesota State Statutes: 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.

Subd. 3. Public hearings.
No zoning ordinance or amendment thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Acres of parcel 17.73

Staff Findings:
Criteria for land use categories. The following criteria shall be used to determine initial zoning classifications and future land use district changes:

(1) Preservation of natural sensitive areas.
This property is not known at this time as a designated as a natural sensitive area.

(2) Present ownership and development.
The present owner of said parcel is the City of Walker. Future development of this parcel is compatible with the proposed zoning designation; Public (P). The purpose of this district is for Public uses of land not oriented towards recreation and open space. Typical uses may include federal, state, or local government offices, schools, or utilities.
The proposed zoning designation meets compatibility requirements in that the tract is owned by the City of Walker and may be used for possible expansion of the sewer ponds.

(3) Shore land soil types and their engineering capabilities.
Property is not classified as shore land.

(4) Topographic characteristics.
The characteristic of this parcel is undeveloped property with no unusual features to affect zoning.

(5) Vegetative cover.
Property has standard vegetative cover.

(6) In-water physical characteristics.
Not applicable.

(7) Recreational use of surface water.
Not applicable.

(8) Road and service center accessibility.
Property does not have direct access to a road; the southernmost part of Tract D has an easement for future expansion of Cass County Highway State Aid Highway No.37.

(9) Socio-economic development needs of the public.
The zoning designation of Public to this parcel is not contrary to the socio-economic needs of the public.

(10) Availability of public sewer and water.
The Tract would be intended for future expansion of the sewer ponds.

(11) The necessity to preserve and restore certain areas having significant historical or ecological value.
The property is not known to have any significant historical or ecological value.

(12) Conflicts between land uses and impacts of commercial or industrial uses or higher densities on adjacent properties.
The zoning designation of Public is not seen to have any adverse effects on the surrounding properties. Its use is consistent with surrounding properties.

(13) Alternatives available for desired land use.
An alternative location is not an applicable factor given the circumstances.

(14) Prevention of spot zoning.
The parcel will not create spot zoning.

(15) Conformance to the City Land Use Plan.
The zoning designation aligns with the 2016 Comprehensive Plan

Commission Direction:

LU-2020-01 Staff Report January 8, 2020
The Commission may recommend approval or denial, or table the application with a specific request for pertinent information. Findings of fact should be stated to support any action. The above findings of fact in this staff report may be used in part or in whole to recommend approval of the zoning designation of Public.

**Staff Recommendation:**
The proposed zoning designation is located next to and abutting an area zoned as Public. Based on the character of the area and existing development trends in close proximity to the parcel of petition as well as conformance to the 2016 Comprehensive Plan and the criteria in the staff findings that determine initial zoning designation and future land use district changes; staff recommends approval of both the annexation request and the zoning designation of PUBLIC.
414.033 ANNEXATION BY ORDINANCE.

Subd. 1. Unincorporated property. Unincorporated property abutting a municipality may be annexed to the municipality by ordinance as provided for in this section.

Subd. 2. Conditions. A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:

(1) the land is owned by the municipality;

(2) the land is completely surrounded by land within the municipal limits;

(3) the land abuts the municipality and the area to be annexed is 120 acres or less, and the area to be annexed is not presently served by public wastewater facilities or public wastewater facilities are not otherwise available, and the municipality receives a petition for annexation from all the property owners of the land. Except as provided for by an orderly annexation agreement, this clause may not be used to annex any property contiguous to any property either simultaneously proposed to be or previously annexed under this clause within the preceding 12 months if the property is or has been owned at any point during that period by the same owners and annexation would cumulatively exceed 120 acres; or

(4) the land has been approved after August 1, 1995, by a preliminary plat or final plat for subdivision to provide residential lots that average 21,780 square feet or less in area and the land is located within two miles of the municipal limits.

Subd. 2a. [Repealed, 1997 c 202 art 5 s 9]

Subd. 2b. Notice, hearing required. Before a municipality may adopt an ordinance under subdivision 2, clause (2), (3), or (4), a municipality must hold a public hearing and give 30 days' written notice by certified mail to the town or towns affected by the proposed ordinance and to all landowners within and contiguous to the area to be annexed.

Subd. 3. 60 percent bordered and 40 acres or less. If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality and if the area to be annexed is 40 acres or less, the municipality shall serve notice of intent to annex upon the town board and the chief administrative law judge, unless the area is appropriate for annexation by ordinance under subdivision 2, clause (3). The town board shall have 90 days from the date of service to serve objections with the chief administrative law judge. If no objections are forthcoming within the said 90-day period, such land may be annexed by ordinance. If objections are filed with the chief administrative law judge, the chief administrative law judge shall conduct hearings and issue an order as in the case of annexations under section 414.031, subdivisions 3 and 4.

Subd. 4. [Repealed, 1978 c 705 s 33]

Subd. 5. Petition by property owners; objections; procedure. If the land is platted, or, if unplatted, does not exceed 200 acres, a majority of the property owners in number may petition the municipal council to have such land included within the abutting municipality and, within ten days thereafter, shall file copies of the petition with the chief administrative law judge, the town board, the county board and the municipal council of any other municipality which borders the land to be annexed. Within 90 days from the date of service, the town board or the municipal council of such abutting municipality may submit written objections to the annexation to the chief administrative law judge and the annexing municipality. Upon receipt of such objections, the chief administrative law judge shall proceed to hold a hearing and issue an order in accordance with section 414.031, subdivisions 3 and 4. If written objections are not submitted within the time specified in this section and if the municipal council determines that property proposed for the annexation is now or
Parcel Report
Parcel Number: 38-357-0004

General Information

Township/City: SHINGOBEE TWP
Taxpayer:
CITY OF WALKER
PO BOX 207
WALKER MN 56484-0207

Property Address:
Section: 3
Township: 141
Range: 31
Plat: REGISTERED LAND SURVEY NO 74
Lake Number: 0
Lake Name:
Acres: 17.73
School District: 113

Legal Description:
TRACT D, REGISTERED LAND SURVEY NO 74

2019 Tax Information

Class Code 1: Rural Vacant Land
Class Code 2: Unclassified
Class Code 3: Unclassified
Homestead: Non Homestead

Estimated Land Value: $24,700.00
Estimated Building Value: $0.00
Estimated Total Value: $24,700.00

Total Taxable Value: $24,700.00
Net Tax (Specials Not Included): $122.00
Total Special Assessments: $0.00

Full Tax for Current Year: $122.00
Total Paid for Current Year: $122.00
Total Penalty for Current Year: $0.00
Balance Due for Current Year: $0.00

Jan 07, 2020
FOR VALUABLE CONSIDERATION, Haktionson Construction Co., Inc. a Corporation under the laws of the State of Minnesota ("Grantee"), hereby convey(s) and warrant(s) to City of Walker a Minnesota Municipal Corporation under the laws of the State of Minnesota ("Grantee"), real property in Cass County, Minnesota, legally described as follows:

TRACT D, REGISTERED LAND SURVEY NO. 74

Grantor will release mineral rights after two years, notice by city of intent to install improvements. City must produce plans of improvements.

TOTAL CONSIDERATION FOR THIS TRANSACTION IS LESS THAN $500.00

Check here if all or part of the described real property is Registered (Torrens) E.

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:
(a) building and zoning laws, ordinances, and state and federal regulations;
(b) restrictions relating to use or improvement of the property without effective forfeiture provisions;
(c) utility and drainage easements which do not interfere with existing improvements

Check applicable box:
☐ The Seller certifies that the Seller does not know of any wells on the described real property.
☐ A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: ___)
☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

CASS COUNTY, MN #1283
Deed tax paid $1,657
Date 11/14/2019 By
Grantor

MANKINSON CONSTRUCTION CO. INC.

Mark Hawthorne
President

State of Minnesota, County of Cass

This instrument was acknowledged before me on November 5, 2019, by Mark Hawthorne as President of Hawthorne Construction Co., Inc., a Minnesota Corporation on behalf of the Corporation.

(Stamp)

LORI LYNN KOCH
Notary Public-Minnesota
My Commission Expires Jan 31, 2021

THIS INSTRUMENT WAS DRAFTED BY:
Renae Whitmer
LEER Title Services
201 6th Street North
P.O. Box 610
Walker, MN 56484
draft prepared without benefit of title examination

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN
THIS INSTRUMENT SHOULD BE SENT TO:
(Insert legal name and residential or business address of Grantee)
City of Walker
P.O. Box 267
Walker, MN 56484
Certificate of Title

No. 10039


REGISTRATION

STATE OF MINNESOTA,
COUNTY OF CASS

COPY

This is to certify that CITY OF WALKER, A MINNESOTA MUNICIPAL CORPORATION UNDER THE LAWS OF THE
STATE OF MINNESOTA, whose address is PO BOX 207, WALKER, MINNESOTA, 56484 is/are now the owner(s) of an
estate, in fee simple, of and in the following described land situated in the County of Cass and State of Minnesota, to-wit:

TRACT D, REGISTERED LAND SURVEY NO. 74

Subject to the encumbrances, liens, and interest noted by the memorial written or endorsed hereon; and subject to the following rights or
encumbrances subsisting, as provided in Laws 1905, chapter 305, section 24, namely:

(1) Liens, claims, or rights arising or existing under the laws of the Constitution of the United States, which this state cannot require to appear of record;

(2) The lien of any real property tax or special assessment;

(3) Any lease for a period not exceeding three years, when there is actual occupation of the premises thereunder;

(4) All rights in public highways upon the land;

(5) The right of appeal, or right to appear and contest the application, petition, or other proceeding affecting the title, as is allowed by this chapter;

(6) The rights of any person in possession under deed or contract for deed from the owner of the certificate of title; and

(7) Any outstanding mechanics lien rights which may exist under sections 514.91 to 514.17.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of my office.

November 14th, 2019

Kathryn M. Norby
REGISTRAR OF TITLES

In and for the County of Cass and State of Minnesota

By ___________________________ Deputy

Kimberly Fagerman
CITY OF WALKER
APPLICATION FOR APPOINTMENT

Applying for: Planning Commission Board Seat

NAME: Michael Leigh Nelson

STREET ADDRESS: [Redacted]

CITY: Walker MN ZIP: 56484

TELEPHONE: [Redacted]

Are you a Resident of Walker? Yes

Are you presently serving on a City of Walker Board? No

Which One? [Redacted] Term [Redacted]

Have you served on a City of Walker Board in the past? No

Which One? [Redacted] Term [Redacted]

Which One? [Redacted] Term [Redacted]

EXPERIENCE OR EDUCATION THAT WOULD ENHANCE YOUR EFFECTIVENESS

AS A BOARD MEMBER
- Bachelor degree - Finance & MBA (partial study)
- 40 years - career in Food Industry
  - 20 years Executive VP Operations
- Multiple non profit Board experience ... BBBS (by website)

__________________________
SIGNATURE

__________________________
DATE 12/16/19

Return completed application to the Walker City Hall, 205 Minnesota Avenue
Or mail to Walker City Hall PO Box 207 Walker, MN 56484 or by email terrin@arvig.net