



---

CITY COUNCIL MEETING AGENDA  
REGULAR MEETING  
TUESDAY, SEPTEMBER 5, 2017

**CITY COUNCIL MEETING TIME: 6:30 PM**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. \*\*\*\*Consent Agenda\*\*\*\*

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes from the August 15, 2017 Regular City Council Meeting.
  - b. Approval of City Council minutes from the August 22, 2017 City Council Workshop.
  - c. Approval of Accounts Payable; Checks Numbered 17363-17414.
  - d. Approval of the Large Assembly Permit for James Dahlheimer to hold an anniversary party on the property located at 9226 US Hwy. 12 and held on September 9<sup>th</sup>, 2017.
  - e. Approval of the Large Assembly Permit for Mama's Happy – Fall Outdoor Market to on the property located at 7888 County Road 6 and held on September 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup>, 2017.
  - f. Approval of Election Judges for the November 2017 Local and School District Elections.
  - g. Approval of **RESOLUTION NO. 17-0905-02** – Supporting adoption of the Minnehaha Creek Watershed District Watershed Management Plan.
5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.
  6. Reports of Boards and Committees by Council and Staff.
  7. **Tabled at July 31, 2017 City Council Meeting:** Richard and Kari Stromer (Applicant/Owner) requests that the City consider the following actions for the property located at 2828 County Line Road (PID No. 18-118-24-24-0003) in Independence, MN:

- a. **RESOLUTION NO. 17-0905-01** - Consideration of granting a variance to allow a lot split of their 19.47 acres in the Agriculture zoning district. The variance would allow for the division of a 4-5 acre portion of this property with access onto Nelson Road; and
- b. A minor subdivision allowing the split of the subject property into two parcels.

8. Massage Parlor Ordinance:

- a. **ORDINANCE NO. 2017-04** - Considering Adoption of a New Ordinance Regulating Massage Parlors in the City.
- b. **SUMMARY ORDINANCE NO. 2017-05** - Considering Adoption of a Summary Ordinance pertaining to Massage Parlors to be published.

9. Open/Misc.

10. Adjourn.

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, AUGUST 15, 2017 –6:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Spencer, Grotting and McCoy

ABSENT: None

STAFF: City Administrative Assistant Horner, City Administrator Kaltsas, City Attorney Office Representative Anderson

VISITORS: Richard Sievers, Brian Glover, Craig Olson, Ed Pluth

4. \*\*\*\*Consent Agenda\*\*\*\*

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council minutes from the July 31, 2017 Regular City Council Meeting.
- b. Approval of City Council minutes from the August 2, 2017 City Council Workshop.
- c. Approval of Accounts Payable; Checks Numbered 17327-17362.
- d. Approval of the Large Assembly Permit for Running of the Bays to be held on September 9<sup>th</sup>, 2017.
- e. Approval of 2<sup>nd</sup> Quarter Financial Report.
- f. Approval to Purchase Banyon Accounting Software.
- g. Approval of Contract with Municode to Codify City Ordinances and Host Online.

**Motion by Betts, second by Spencer to approve the Consent Agenda. Ayes: Johnson, McCoy, Spencer, Grotting and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Budget meeting for Public Works Dept. with Ende
- Met with Kaltsas for Workshop update
- Eagle Scout Award Ceremony for Nathan and Alex Moe

**Grotting attended the following meetings:**

- City Council Workshop
- Night to Unite Events

**McCoy attended the following meetings:**

- City Council Workshop
- Night to Unite Events
- Loretto Fire Department Meeting

**Betts attended the following meetings:**

- Night to Unite Events
- City Council Workshop

**Johnson attended the following meetings:**

- Night to Unite Events
- City Council Workshop
- Senior Community Services Finance Meeting
- Minnehaha Watershed District Meeting
- Metro Cities Policy Meeting
- Snowmobile Picnic
- State Capitol Open House
- Loretto Fire Department Meeting

**Horner attended the following meetings:**

- City Council Workshop
- Night to Unite Events

**Kaltsas attended the following meetings:**

- Met with Maple Plain and Maple Plain Fire

7. DIRECTOR GARY KROELLS, WEST HENNEPIN PUBLIC SAFETY - ACTIVITY REPORT FOR THE MONTH OF JUNE 2017 AND JULY 2017.

\*\*\*for the full WHPS Activity Report please refer to the City Council Packet\*\*\*

8. TABLED AT JULY 31, 2017 CITY COUNCIL MEETING: JASON SIEVERS (APPLICANT/OWNER) REQUESTS THAT THE CITY CONSIDER THE FOLLOWING ACTIONS FOR THE PROPERTY LOCATED AT 1180 COUNTY ROAD 83 (PID NO. 25-118-24-32-0001) IN INDEPENDENCE, MN:

- a. **RESOLUTION NO. 17-0815-01** – granting a variance to allow a reduced side yard setback for the subject property (Resolution will be brought back to Council for adoption based on Council decision).

Kaltsas noted that Council directed staff to prepare a resolution considering a six-foot variance with findings discussed during the Council Meeting. The findings are as follows:

- a. The applicants are proposing to use the property in a manner consistent with the Rural Residential District.
- b. The character of the surrounding area is residential.
- c. The proposed expansion of the home and garage is generally in keeping with the City's comprehensive plan.
- d. There is a jog in the property line which limits the ability of the applicant to expand the house and garage.
- e. The existing trees in the front of the house will be preserved by the applicant.
- f. The variance will allow the existing curb cut and driveway to be maintained in its current location.
- h. The variance will allow the retention of the existing home

**Motion by Betts, second by Grotting to approve RESOLUTION NO. 17-0815-01 – granting a variance to allow a reduced side yard setback for the subject property located at 1180 County Road 83 (PID No. 25-118-24-32-0001) in Independence, MN. Ayes: Johnson, McCoy, Spencer, Grotting and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

9. ESTABLISH DATE FOR THE TRUTH AND TAXATION BUDGET PUBLIC HEARING.

Johnson noted the date is usually in early December.

**Motion by Spencer, second by McCoy to approve the date of December 5, 2017 at 6:00 p.m. for the Truth and Taxation Meeting. Ayes: Johnson, McCoy, Spencer, Grotting and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

10. OPEN/MISC.

11. ADJOURN.

**Motion by McCoy, second by Grotting to adjourn at 7:10 p.m. Ayes: Johnson, McCoy, Spencer, Grotting and Betts. Nays: None. Absent: None. MOTION DECLARED CARRIED.**

Respectfully Submitted,

---

Trish Bemmels/ Recording Secretary

MINUTES OF A WORK SESSION OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, AUGUST 22, 2017 –7:00 A.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a work session of the Independence City Council was called to order by Mayor Johnson at 7:02 a.m.

2. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Fisher, Grotting, Spencer, and McCoy

ABSENT: None

STAFF: Interim City Administrator Kaltsas, Administrative Assistant Beth Horner, Public Works Director Larry Ende

VISITORS: Steve McDonald (ABDO), Liz Lundrud

3. 2018 BUDGET – discussion relating to revised budget based on council direction from last meeting.

- a. 2018 Preliminary Budget and Tax Levy
- b. Capital Improvement/ Equipment Plan
- c. Current Bond Debt Balances Summary
- d. City Fund Balances Summary

Kaltsas outlined following the initial discussion of the 2018 Budget and tax levy, staff has worked to revise the budget. Council directed staff to prepare a draft preliminary budget based on a 40% City tax rate. Abdo, Eick & Meyers has prepared an updated preliminary budget which increases the overall City tax rate to 40% from 39%. The effect of the increased tax rate is an approximate \$93,000 increase in overall revenue. This rate increase would result in a general fund levy increase from 2017 of 6.34 percent. It is recommended that this additional revenue be allocated to the City's funds as follows:

- \$60,000 – Public Works Capital Equipment Fund
- \$33,050 – General Fund

The City has made several additional key revisions to the budget following the initial meeting:

1. Updated the budget based on the three fire services contract numbers as well as an updated West Hennepin Public Safety proposed budget number. The proposed 2018 public safety and fire contract amounts are as follows:

	2018	2017
• Maple Plain Fire –	\$217,410.00	\$185,344.0
• Delano Fire –	\$66,072.73	\$66,129.13
• Loretto Fire -	\$75,138.85	\$81,442.14
• WHPS -	\$1,118,860	\$1,089,303

Process realized that the Fire Department District figures did not match the entire City valuation. This will be studied further to see if it will make a difference on the fire contract.

2. Added additional funding to the Mayor and Council budget for the 2018 National League of Cities Event. Included \$15,000 for continuation of the 2040 Comprehensive Plan preparation. It is anticipated that the City would complete this process in 2018 (must submit plan to Metropolitan Council by end of 2018).
3. The City has PW capital equipment cash balance of approximately \$90,000. If the City makes the \$60,000 contribution to the PW capital fund in 2018, and on an annual basis moving forward, it would put the City in a position to generally fund the long-term capital equipment plan.
4. The approximate \$90,000 increase in revenue resulting from the rate increase will go towards increasing the City's fund balance.
5. The capital improvement plan for City Hall shows no significant expenditures until 2020. The current budget contemplates the City taking on a more robust overhaul of the mechanical systems and interior and exterior needs of the building in 2020. The 2006A GO bond issue will be expiring in 2020. The City could capture the expiring debt by issuing new debt in 2020 (payable 2021) to upgrade City Hall. This could include upgrades to the front entrance, carpet and flooring, interior and exterior painting, new HVAC equipment for WHPS, community room upgrades and storage and garage space upgrades.
6. The budget reflects a 2% cost of living increase. In addition, the budget identifies an additional 7 hours of administration time per week which would increase our part-time administration from 25 to 32 hours.

Johnson said the figures showing expenditures over revenue bothered him and noted at the last meeting it was discussed to grow the carry over. McDonald noted that was through August and to be expected. Kaltsas said everything is on track and noted legal was a little higher this year. He said as of the second quarter report everything was in-line.

Kaltsas said the capital plan will involve pushing most of those expenditures out to 2020. New debt will be issued then to fund improvements to City Hall.

Johnson asked if the valuations were on target than the levy increases would probably be about 6%. McDonald noted things may change a little bit but it would be within that range. He said setting capital aside for trucks to be purchased in the future is a good idea. Ende said the roads would need overlay in about 3-4 years.

Kaltsas noted most of the equipment has been bought and funded. Ende said there would need to be an equipment purchase in 2020 of a tandem truck vehicle. He said the trucks get rusted out from salt getting into the frames, etc. Ende said a pressure washer and sweeper are two other pieces of equipment that are needed. Ende noted they probably would need another swap box for pre-wetting as well. McCoy asked how many gallons of pre-treat it does. Ende said they can get 20 applications out of 1200 gallons.

Kaltsas said they took the Building Inspector car out of the capital plan on the Public Works side. He noted that vehicle needs to be upgraded to a small SUV. Kaltsas noted WHPS has a SUV that will be available soon.

Johnson asked how many new house permits were pulled so far this year. Kaltsas said so far there are 8 new house

permits.

Kaltsas addressed the debt schedule and different bonds that would be expiring. Kaltsas outlined the combined cash investments which outlined what was held in all funds. Lundrud noted the allocations are funded 50% out of obligations and then fully funded by December.

Kaltsas asked if there were any thoughts on the budget, noting a preliminary budget needed to be set by the end of September. Spencer asked if PSCWC was up 10k. Kaltsas said the City had not gotten the final bill.

Johnson thought it should wait until the 2<sup>nd</sup> meeting in September in case something came up. It was agreed the 19<sup>th</sup> would be a good date for the preliminary.

Johnson said it should be researched if the City is legally able to approve or disapprove conservation easements in land trust situations.

Workshop was adjourned at 8:05 a.m.

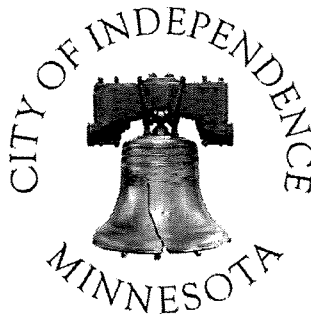
Respectfully submitted,

---

Trish Bemmels, Recording Secretary



PERMIT # \_\_\_\_\_



## NON-CITY ASSEMBLY PERMIT APPLICATION

### Fees & Definitions:

• 200+ Attendees (Large Assembly) = \$250	• 50+ Attendees (Small Assembly) = \$50
• 100+ Attendees (Medium Assembly) = \$100	• Non-profit Organizations = \$25

(Double fee for application received less than 10 business days prior to event).

Event Location: 9226 US HWY 12, Delano MN 55328  
Type of event: Anniversary Party Number of people attending: <100 Date: 09/30/17  
☐ Residential ☐ Corporate ☐ Partnership ☐ Group or Association ☒ Other

Event Holder's Name: James Dahlheimer Address: 9226 US HWY 12, Delano MN 55328  
Contact Person: James Dahlheimer Home Phone: N/A Cell Phone: 763-221-8847  
2<sup>nd</sup> Contact Person: Shelby Dahlheimer Home Phone: N/A Cell Phone: 507-236-4991  
jimmy.dahlheimer@yahoo.

Security Plans: N/A  
Date West Hennepin Public Safety was notified of the event: \_\_\_\_\_

Severe Weather Plans (in the event of): Cancellation

Sound Plans - amplification and sound control: Semi-Enclosed area  
Outdoor Music ☒ Yes ☐ No - Starting Time 7 AM/PM, Ending Time 12 AM/PM

Food and Concessions Plans: N/A  
Vendor's name, address, and license number (copies of vendor license, insurance and permits must be provided)

Vendor Work #: \_\_\_\_\_ Vendor Cell #: \_\_\_\_\_

Serving Alcohol: Yes: X No: \_\_\_\_\_  
Selling Alcohol: Yes: \_\_\_\_\_ No: X (If selling alcohol contact the City for a Permit)

Restroom Provisions: How many? 0 Location: \_\_\_\_\_

Lighting - Type: Flood Lights How many? 5+  
Location of lights: Back Porch

\$1,000,000 Certificate of Liability Insurance-provide a copy: yes

**Parking Plan:** Please provide a site plan showing 1 parking space for each vehicle per 4 guests. If using adjacent property, written permission from property owners must be obtained.

08/12/2017  
Date

[Signature]  
Signature of applicant

\_\_\_\_\_  
Date

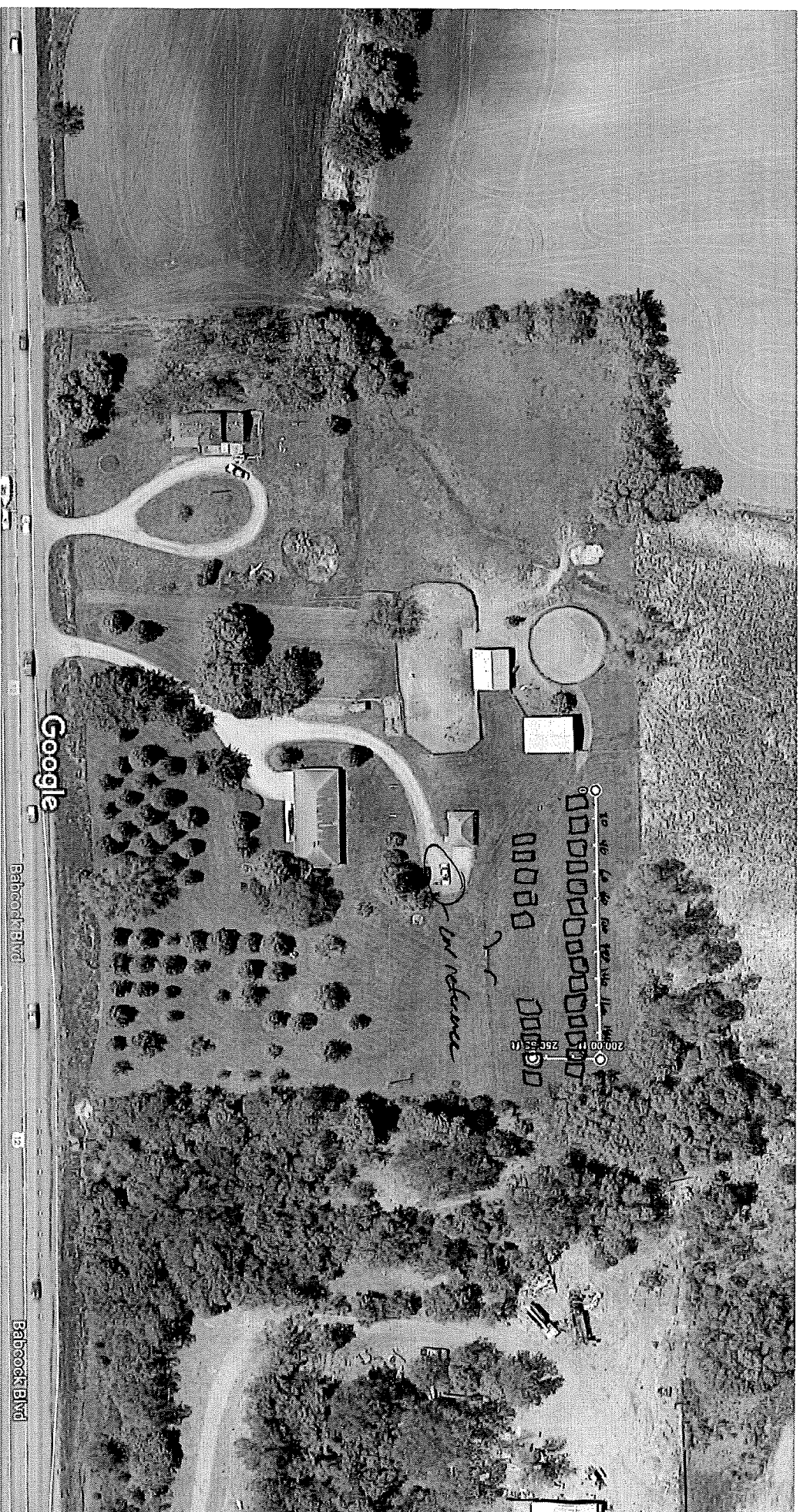
\_\_\_\_\_  
Signature of applicant

Office Use Only		
Application Received: <u>8/17/17</u>	Application Fee: <u>50</u>	Date Fee Paid: _____
Date \$1,000,000 certificate of liability insurance received: <u>8/17/17</u>		
Signature of City Official <u>[Signature]</u>	Date <u>8-18-17</u>	
Signature of West Hennepin Public Safety	Date	

\* No parking at all on Hwy 12

\* Understanding city ordinance is no loud music or music past 10:00 p.m.

## Google Maps



Measure distance

Total distance: 250.55 ft (76.37 m)

Avg Car Length: 15 ft.

Avg Car Width: 5 ft.

4 people per car X 25 spaces = 100 people

BRIAN K HUOTARI INSURANCE AGENCY IN  
2 DIVISION ST E #203  
BUFFALO, MN 55313



## Home Insurance Policy Change

SHELBY & JAMES DAHLHEIMER  
9226 HIGHWAY 12  
DELANO MN 55328-9416

3/14/2017

Dear Shelby Dahlheimer and James Dahlheimer,

Thank you for giving us the opportunity to serve your home insurance needs. This packet reflects recent changes made to your policy.

A summary of your premium and policy change information is shown below.

### Premium at-a-glance

Full-term Premium (excluding fees)	\$1,391.76
Prorated Premium (3/13/2017 - 12/21/2017)	\$0.00
<b>Total for this Transaction</b>	<b>\$0.00</b>

### This is not a bill.

Your bill with the amount due will be mailed separately to your mortgagee company.

### Summary of changes

	Previous	Current
Miscellaneous: Insured Address		Updated

If you have any questions or would like to learn more about our other insurance products and services, please contact your agent.

We appreciate your business.

Sincerely,

Farmers Insurance Group®

### Your Farmers Policy

Policy Number: 30396-47-12

Effective: 3/13/2017 12:01 AM

Expiration: 12/21/2017 12:01 AM

### Property Insured

9226 Highway 12

Delano, MN 55328-9416

### Your Farmers Agent

Brian K Huotari Insurance Agency  
In

2 Division St E #203

Buffalo, MN 55313

(763) 682-2997

bhuotari@farmersagent.com

To file a claim call

**1-800-435-7764**

# Farmers Smart Plan Home® Declarations



**Policy Number:** 30396-47-12  
**Effective:** 12/21/2016 12:01 AM  
**Expiration:** 12/21/2017 12:01 AM  
**Named Insured(s):** Shelby and James Dahlheimer  
9226 Highway 12  
Delano, MN 55328-9416  
**e-mail** shm67289@bethel.edu  
**Address(es):**  
**Property Insured:** 9226 Highway 12  
Delano, MN 55328-9416  
**Underwritten By:** Truck Insurance Exchange  
6301 Owensmouth Ave.  
Woodland Hills, CA 91367

## Premiums

Full-term Premium (excluding fees)	\$1,391.76
Prorated Premium (3/13/2017 - 12/21/2017)	\$0.00
<b>Total for this Transaction</b>	<b>\$0.00</b>

Your policy premium includes a Total Discount Savings of \$785.59

\*also see Information on Additional Fees below

## This is not a bill.

Your bill with the amount due will be mailed separately.

Information on this declaration is effective 3/13/2017.

## Description of Property

Year of Construction	Construction Type	Roof Type	Number of Units	Occupancy
1965	Wood Siding Over Frame	Composition Shingles	1	Owner Occupied (Primary Res.)

## Property Coverage

Coverage	Limit	Coverage	Limit
Coverage A - Dwelling	\$229,000	Coverage D - Loss of Use	\$45,800
Extended Replacement Cost	\$57,250	Additional Living Expense Term	12 Months
Coverage B - Separate Structures	\$22,900	Building Ordinance or Law	Covered
Coverage C - Personal Property	\$125,950	Limited Matching Coverage for Siding and	\$10,000
Contents Replacement Coverage	Covered	Roof Materials	

## Roof Loss Settlement

Age of Roof	Roof Surface Material Type
32	Composition Shingles

**Note:** Roof Surface Material Type is a grouping of similar roof types for the purpose of claim settlement. Roof Surface Material Type will be verified at the time of claim investigation and corresponds to the schedule outlined in the "Definitions" section of your policy.

## Liability Coverage

Coverage	Limit	Coverage	Limit
Coverage E - Personal Liability	\$1,000,000	Coverage F - Medical Payments To Others	\$1,000

farmers.com

Policy No. 30396-47-12

### Questions?

Call your agent Brian K Huotari  
Insurance Agency Inc at (763) 682-2997  
or email  
bhuotari@farmersagent.com

### Manage your account:

Go to [www.farmers.com](http://www.farmers.com) to access  
your account any time!

## Declarations (continued)

### Optional Coverage

Coverage	Limit	Coverage	Limit
Farm Endorsement Liability	Covered	Identity Fraud Expense Coverage	Not Covered
Farm Endorsement - Buildings	See endorsement J7030	Roof Materials Loss Settlement	Replacement Cost Value
Fence Replacement Cost	Covered		

### Deductible

	Deductible
Applicable to each covered loss	\$1,500

### Discounts Applied to Policy

Discount Type	Discount Type
Preferred Payment Plan	Claim Free
Auto/Home	Good Payer
Non Smoker	ePolicy

► **Total Discount Savings** **\$785.59**

### Other Policy Features and Benefits

- Claim Forgiveness - this benefit prevents your premium from increasing as a result of your next claim after your policy has been in force for five years without a claim.

### Mortgagee / Other Interest

1st Mortgagee	Loan Number
Wells Fargo Bank NA #936 ISAOA PO Box 100515 Florence, SC 29502-0515	0528203987

### Policy and Endorsements

This section lists the policy form number and any applicable endorsements that make up your insurance contract. Any endorsements that you have purchased to extend coverage on your policy are also listed in the coverages section of this declarations document: 56-5636 1st ed.; J6944 1st ed.; J7017 1st ed.; J7018 1st ed.; J7030 1st ed.; 25-2481 6-12

### Other Information

- Your policy has a Changes Loss Settlement from Replacement Cost to Actual Cash Value; see endorsement J7018.

## Declarations (continued)

---

- Please contact your Farmers® agent for a free Farmers Friendly Review® so that you can ensure that your family is properly protected. Your agent can explain all of the policy discounts/credits, coverage options and our various other product offerings that may be available to you.
- Mortgagee pays premium for this policy.
- Farmers offers Declining Deductibles to long-term Home customers. This benefit reduces the amount of the deductible you have to pay in the event of a loss. You start accruing a Declining Deductibles balance when your policy renews. It is our way of showing appreciation for your continued business.

### **\*Information on Additional Fees**

The "Fees" stated in the "Premium/Fees" section on the front apply on a per-policy, not an account basis. The following additional fees also apply:

- 1. Service Charge per installment** (In consideration of our agreement to allow you to pay in installments):
  - For Recurring Electronic Funds Transfer (EFT) and fully enrolled online billing (paperless): **\$0.00** (applied per account)
  - For other Recurring EFT plans: **\$2.00** (applied per account)
  - For all other payment plans: **\$5.00** (applied per account)
- 2. Late Fee: \$10.00** (applied per account)
- 3. Returned Payment Charge: \$25.00** (applied per check, electronic transaction, or other remittance which is not honored by your financial institution for any reason including but not limited to insufficient funds or a closed account)
- 4. Reinstatement Fee: \$25.00** (applied per policy)

If this account is for more than one policy, changes in these fees are not effective until the revised fee information is provided for each policy.

One or more of the fees or charges described above may be deemed a part of premium under applicable state law.

#### Questions?

Call your agent Brian K Huotari  
Insurance Agency Inc at (763) 682-2997  
or email  
bhuotari@farmersagent.com

#### Manage your account:

Go to [www.farmers.com](http://www.farmers.com) to access  
your account any time!

PERMIT # \_\_\_\_\_



## NON-CITY ASSEMBLY PERMIT APPLICATION

### Fees & Definitions:

• 200+ Attendees (Large Assembly) = \$250	• 50+ Attendees (Small Assembly) = \$50
• 100+ Attendees (Medium Assembly) = \$100	• Non-profit Organizations = \$25

(Double fee for application received less than 10 business days prior to event).

Event Location: Mama's Happy 7888 CR 6

Type of event: Art Market

Number of people attending: 2015 2016 2000 4000 Date: 9/7-9

☐ Residential ☐ Corporate ☐ Partnership ☐ Group or Association ☒ Other

Retail

Event Holder's Name: Mama's Happy

Address: 7888 CR 6

Contact Person: Amanda Fick

Home Phone: \_\_\_\_\_

Cell Phone: 612-239-0318

2<sup>nd</sup> Contact Person: Scott Fick

Home Phone: \_\_\_\_\_

Cell Phone: 612-281-5419

Security Plans: \_\_\_\_\_

Date West Hennepin Public Safety was notified of the event: June 2017

Also touched base after last year's event

Severe Weather Plans (in the event of): Cancelled

Sound Plans - amplification and sound control: No amplification

Outdoor Music ☒ Yes ☐ No - Starting Time 10 AM/PM, Ending Time 4:30 AM/PM

Food and Concessions Plans: Dakota Junction

Vendor's name, address, and license number (copies of vendor license, insurance and permits must be provided)

2281 Commerce Blvd. Mound

Vendor Work #: 952-479-1519

Vendor Cell #: 612-805-6300



Serving Alcohol: Yes: \_\_\_\_\_ No: ✓  
Selling Alcohol: Yes: \_\_\_\_\_ No: ✓ (If selling alcohol contact the City for a Permit)

Restroom Provisions: How many? 6 Location: By road

Lighting - Type: None How many? \_\_\_\_\_  
Location of lights: \_\_\_\_\_

\$1,000,000 Certificate of Liability Insurance-provide a copy: \_\_\_\_\_

**Parking Plan:** Please provide a site plan showing 1 parking space for each vehicle per 4 guests. If using adjacent property, written permission from property owners must be obtained.

9/1/17  
Date

Amanda Hickey  
Signature of applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of applicant

**Office Use Only**

Application Received: \_\_\_\_\_ Application Fee: \_\_\_\_\_ Date Fee Paid: \_\_\_\_\_

Date \$1,000,000 certificate of liability insurance received: \_\_\_\_\_

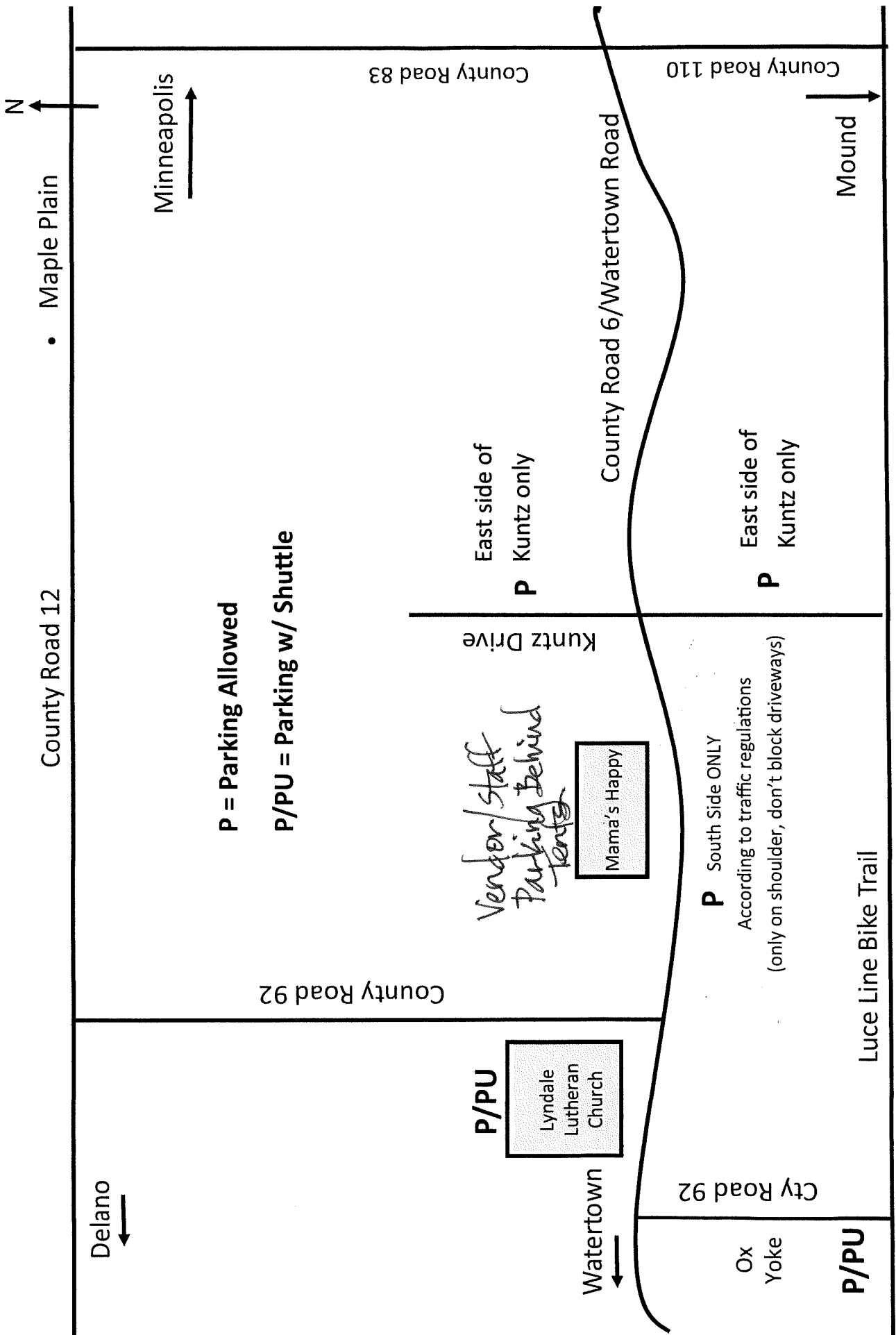
\_\_\_\_\_  
Signature of City Official

\_\_\_\_\_  
Date

C. Hoff  
Signature of West Hennepin Public Safety

9-1-17  
Date

Reserve Officers will work traffic control on Sept. 8 & 9  
for \$25 per hour. Invoice will be mailed to owners.  
Owners will also post no parking signs as agreed  
with West Hennepin PD.  
Chief Hoff MS



# City of Independence

## Approval of Election Judges for the 2017 Local and School District Elections

---

<i>To:</i>	City Council
<i>From:</i>	Beth Horner
<i>Meeting Date:</i>	September 05, 2017

### ***Discussion:***

The City Council is required to appoint election judges for the upcoming local and school district elections in November. Staff has prepared a list of election judges for consideration by the City Council. The following election judges can be considered for appointment by the City Council:

1. Sharon Cook
2. Marilyn Hamilton
3. Kay Gabriel
4. Judy Crosby
5. Jerry Wise
6. Lori McNamara
7. Paula Savage
8. Carol Neyens
9. Joan Kittok
10. Jeanne Gardner

### ***Recommendation:***

It is recommended that the City Council approve the appointment of the aforementioned election judges.

## City of Independence

### Consideration of Minnehaha Creek Watershed District Watershed Management Plan

---

*To:* City Council  
*From:* Mark Kaltsas  
*Meeting Date:* September 05, 2017

**Discussion:**

Minnehaha Creek Watershed District has been preparing a 10-year watershed management plan for the past year. Mayor Johnson has represented Independence as an active member of the Policy Advisory Committee for the Plan over this past year. The Painter Creek Subwatershed plan is most pertinent to the City of Independence. The Painter Creek Subwatershed will be a focus of District planning and investments over the next 5-10 years.

*“MCWD’s 2017 Plan builds upon the previous plan’s extensive technical understanding of the watershed’s resources, now emphasizing collaboration with communities to align water resource goals with local land use goals. The plan establishes clear priorities to focus the District’s work, while providing the flexibility to respond to the needs and opportunities identified in real time.”*

An overview of the Plan and the draft Plan are available on the MCWD website at [www.minnehahacreek.org/2017](http://www.minnehahacreek.org/2017). The Executive Summary section and the Painter Creek Subwatershed Plan provide a general overview of the portion affecting Independence. Staff has reviewed the plan and supports the collaborative approach to water management and land use.

Mayor Johnson has prepared a letter of support in addition to the resolution supporting the plan.

**Recommendation:**

Staff is seeking Council direction relating to adoption of a resolution supporting the plan.

**Attachments: RESOLUTION NO. 17-0905-02**  
**Letter of Support**



---

**RESOLUTION NO. 17-0905-02**

**RESOLUTION OF SUPPORT FOR THE  
MINNEHAHA CREEK WATERSHED DISTRICT WATERSHED MANAGEMENT PLAN**

WHEREAS, the Minnehaha Creek Watershed District (District) has drafted an update to its Watershed Management Plan (WMP) which was distributed for public review and comment on July 7, 2017;

WHEREAS, the draft WMP centers around the District's Balanced Urban Ecology policy which prioritizes partnership with the land use community to integrate policy, planning, and implementation in order to leverage the environmental, social, and economic value created when built and natural systems are in harmony;

WHEREAS, the draft WMP creates a framework in support of this policy which emphasizes:

- Partnership and early coordination with cities and other public and private partners acting on the landscape to align goals, plans, and investments;
- Focused implementation in areas of high resource need and opportunity so as to make significant, measurable improvement to water resources;
- Flexibility to respond to needs and opportunities District-wide through capital improvements, grants, technical support, and other programming;

WHEREAS, the City of Independence recognizes the District's strategies for Lake Minnetonka are to focus within the Six Mile Creek Halstead Bay and Painter Creek drainage areas to improve the most degraded bays on Lake Minnetonka; and

WHEREAS, the City of Independence includes a large portion of the Painter Creek Subwatershed which will be a focus of District planning and investment through its 2017 WMP

WHEREAS, the City of Independence recognizes and supports the opportunity for the District and the United States Army Corps of Engineers to continue a previously-established partnership to pursue the restoration of four major wetland marsh systems within the Painter Creek Subwatershed; and

WHEREAS, the District is positioned through the WMP to also provide value added support and technical services to the City of Independence through its permitting, education and planning programs;

WHEREAS, the draft WMP has been developed in coordination with a Policy Advisory Committee, Technical Advisory Committee, and Citizens Advisory Committee which met regularly throughout 2015-2016 to provide input on the proposed WMP framework;

NOW, THEREFORE, BE IT RESOLVED:

- City of Independence expresses support for the District's draft WMP and its approach of partnership and integrated planning, focused implementation, and responsiveness to opportunities;
- Independence will work to coordinate its policies, plans, and investments with the District to maximize public benefit;

Passed and Adopted by the Council on this 5<sup>th</sup> day of September, 2017

CITY OF INDEPENDENCE

\_\_\_\_\_  
By: Marvin Johnson  
Its Mayor

ATTEST: \_\_\_\_\_  
By: Mark Kaltsas  
Its City Administrator



---

September 5, 2017

City of Independence  
Marvin Johnson  
1920 County Road 90  
Independence, MN 55359

Dear Ms. Christopher,

Through my participation on the Policy Advisory Committee for the Minnehaha Creek Watershed District's 2017 Comprehensive Plan this past year, I recognize the District has evolved its water management philosophy from being predominantly focused on regulation and local mandates, towards partnering with local communities to improve water resources through integrated land use and water planning with communities.

The City of Independence endeavors to provide a variety of rural living choices while preserving prime agricultural lands and natural environmental features. The City's portion of the Minnehaha Creek Watershed District includes rural living, agriculture, and a large portion of the Painter Creek drainage area to Jennings Bay, on Lake Minnetonka. I have been engaged with the District for the previous five years on the planning of habitat and water quality projects in this area which have the potential to leverage millions of federal dollars for these improvements. Operating at a regional scale while in close collaboration with local communities makes sense and I support the District's proposed partnership approach with local governments as I've learned through the committee process and reflected in the District's 2017 Comprehensive Plan.

It is a goal of Independence to guide development of land uses to minimize conflict and damage to the environment. As we experience land use change over time I understand through early coordination we can leverage a variety of District technical resources to maximize our community goals and environmental outcomes.

Thank you for the advanced coordination over the previous year on the District's 2017 Comprehensive Plan, we are supportive of the District's 2017 Plan and excited about this new direction in water management. The City of Independence looks forward to many more fruitful years of collaboration with the Minnehaha Creek Watershed District.

Sincerely,

Marvin Johnson  
Mayor

## City of Independence

### ***Request for a Variance and Minor Subdivision to Permit a Lot Line Rearrangement for the Property Located at 2828 County Line Road***

---

*To:* City Council  
*From:* Mark Kaltsas, City Planner  
*Meeting Date:* September 5, 2017 (*Continued from the July 31, 2017 Council Meeting*)  
*Applicant/Owner:* Richard and Kari Stromer  
*Location:* 2828 County Line Road

#### ***Request:***

Richard and Kari Stromer (Applicants/Owners) request that the City consider the following actions for the property located at 2828 County Line Road, Independence, MN (PID No. 18-118-24-24-0003):

- a. A variance to allow the subdivision of property in the AG-Agriculture zoning district.
- b. A minor subdivision to allow the subdivision of the subject parcel into two (2) lots.

#### ***Property/Site Information:***

The subject property is located south of Hwy. 12, west of Nelson Road and East of County Line Road. There is an existing home and accessory buildings located on the property. The home is accessed via Maria Rd. There is a creek that bisects a portion of the property. The property has upland pasture as well as a stand of mature trees. The property has the following site characteristics:

#### **Property Information: 2828 County Line Road**

*Zoning: Agriculture*

*Comprehensive Plan: Agriculture*

*Acreage: (BEFORE) 19.47 acres*

*Acreage: (AFTER) 15.15 acres – West Parcel*

*4.32 acres – East Parcel (Proposed Tract A)*





**UPDATE:**

City Council tabled the application in July 2017 in order to allow staff time to research additional information pertaining to this property. The primary question raised during the City Council Meeting was relating to a past assessment for road improvements made to Nelson Road in 1991. Staff researched project files and City Council minutes searching for information relating to the Nelson Road assessment. Ultimately staff was able to confirm two factors relating to the assessment project:

1. The property was assessed for the Nelson Road improvements in 1991.
2. Prior to the assessment hearing, the City had the Building Inspector perform a field inspection of the property east of the existing creek and with frontage on Nelson Road to determine if the land would support a new home (with septic field). The Building Inspector completed an inspection the property, took a soil sample and reported to the Council that he believed the property could accommodate a new home if split from the remaining property (see attached minutes). The City will

**need to determine if the decision to assess the property in 1990 was made at least partially on the ability of the east portion of this property to be subdivided as an independent lot.**

**The City will need to determine if the additional information provides findings that would allow for approval of the variance and subsequent minor subdivision. The City has historically studied the potential developability of a property when considering road and utility assessments. Staff has prepared two resolutions (numbered the same) for consideration by the City Council. Based on the direction provided, one of the resolutions can be adopted.**

**Note: The City received additional public comment following the last City Council Meeting.**

***Discussion:***

The applicants approached the City about the possibility of subdividing their property into two lots. The property is zoned Agriculture. The City does not allow the subdivision of property zoned Agriculture with the exception of lot line rearrangements and rural view lot splits. The City would have to consider granting a variance from the zoning ordinance to allow the subdivision of this property. The overall property does not meet the minimum 40-acre requirement to realize a rural view lot subdivision.

The property has an existing home and accessory structures that are accessed via Maria Rd. to the west. The applicant has noted in their application that the existing creek and tree line divides the property and makes access of the eastern portion difficult. Additionally, the property has frontage on Nelson Road to the east. The applicant would like the City to consider granting a variance to allow the subdivision of property in the Agriculture zoning district that does not meet the minimum 40-acre lot size. The applicant has provided a survey, wetland delineation and septic design for the proposed Tract A. The proposed new parcel would be a total of 4.32 acres with 2.76 acres of useable upland. The newly subdivided property would be accessed via Nelson Road. Based on the information provided and a site visit, the proposed lot would appear to accommodate the development of a single-family home meeting all requisite requirements. The proposed property would have the following detail:

Min. Lot Size Required to Subdivide:	40 Acres
Existing Lot Size:	19.47 Acres
Min. Lot Frontage Required:	250 Lineal Feet
Lot Frontage Proposed:	440 Lineal Feet

Min. Upland Acreage Required:	2.5 Acres
Upland Acreage Proposed:	2.76 Acres

The remainder property with the existing home and accessory structures would not be negatively impacted as a result of the proposed subdivision. The proposed property line for the new parcel would not create any non-conformities or reduced setbacks relating to the remainder property, the existing home or accessory buildings.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not create a situation that is not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:*

*(a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*

*(b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*

*(c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough*

*proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Consideration of the standards for granting a variance:

- a. The applicants are proposing to use the existing and proposed property as residential which is consistent with the AG-Agriculture Zoning District.
- b. The properties created by the subdivision are similar in nature and character to the surrounding properties. There are existing properties located along Nelson Road that range between 2.5 and 40 acres plus.
- c. The character of the surrounding area is mixed residential/agricultural and guided for long term agriculture. The majority of existing properties that are less than 40 acres along Nelson Road, were subdivided based on a previous ordinance and comprehensive plan for the City. The City's current comprehensive plan guides this area for long term agriculture. The City will need to determine if the proposed subdivision is in keeping with the intent of the City's comprehensive plan.
- d. The requested variance to allow the subdivision of the property must be found to be unique to this property. The City reviewed aerial photographs and survey information to determine if the condition of having a creek subdivide the property with two points of access (Maria Road on the west and Nelson Road on the east) is unique to this property. Due to the large area of the City and the number of properties, it is difficult to determine if this situation is wholly unique to this property. The City has many unique properties as well as many situations that could be presented as unique to a given property. The City has recently considered and granted a variance to allow the subdivision of an Agricultural property, less than 40 acres, that was bisected by an existing road. In that instance, the City was able to more definitively identify the same condition and found that there were a handful (less than 5) of properties that had the same circumstances and conditions of a road bisecting the property. The City has a large number of properties that are less than 40 acres, zoned Agriculture and have unique conditions. The City will need to determine if the unique characteristics of this property are distinctive and discernable from other conditions on similar properties.

The City will need to determine if the requested variance to allow the subdivision of the property meets the requirements for granting a variance. The proposed subdivision, if approved, would create two properties that meet all other applicable criteria of the City's zoning ordinance.

The existing house on the remainder property has an existing on-site septic system that will remain in use with the existing home. Upon the sale of the parcel, the City will require an inspection of the system. Proposed Tract A will need to accommodate the requisite primary and secondary on-site septic system locations. The proposed subdivision does not currently provide for the requisite drainage and utility easements along all property lines. These easements would need to be provided to the City should the

application be approved.

The proposed Tract A would be required to pay the City's Park Dedication fee. For this property, the park dedication fee amount is \$3,500.00. This fee will need to be paid prior to recording the subdivision.

Park dedication fee \$3,500 per lot up to 4.99 acres, plus \$750 per acre for each acre over 5.

$$4.32 \text{ acres} = \$3,500$$

***Planning Commission Discussion:***

Planning Commissioners discussed the proposed variance to allow a subdivision. Commissioners noted that they would need to determine that there are unique characteristics of the property that would warrant the variance to be granted. Commissioners discussed that there is a creek that separates the proposed parcel from the remainder of the property and that it would have access onto a City street.

Commissioners discussed whether or not the condition was created by the landowner and if the property was useable to the landowner in the current condition. Commissioners asked staff for historical information relating to any similar variances granted by the City and also if there were properties that would have similar characteristics. Staff noted the few instances where a variance had been granted and also noted that there are too many variables to determine if this condition would appear on other properties within the City. Planning Commissioners had varying viewpoints relating to the request and whether the condition was unique to this property. Several Commissioners believed that the creek separation and access on a City road were unique characteristics of the property and several Commissioners stated that they did not believe that these conditions were solely unique and that the variance would potentially open up too many similar situations. Commissioners ultimately could not approve a motion to either approve or deny the requested variance and minor subdivision.

***Recommendation:***

The Planning Commission did not make a recommendation for the requested variance and minor subdivision. City Council is being asked to provide direction and resolve to approve or deny the requested variance. The City has prepared two resolutions; one approving the application, and one denying the application. Based on the determination made by Council, the corresponding resolution can be considered for adoption. If new findings are considered by the Council, a revised resolution can also be brought back for future consideration.

**Attachments:**

- Application/Narrative
- Survey
- Meeting Minutes from 1990 City Council Assessment Hearing
- RESOLUTION NO. 17-0905-01





---

**RESOLUTION NO. 17-0905-01**

**A RESOLUTION APPROVING A VARIANCE AND MINOR SUBDIVISION  
FOR THE PROPERTY LOCATED AT 2828 COUNTY LINE ROAD**

WHEREAS, the City of Independence (the “City”) is a municipal corporation under the laws of Minnesota; and

WHEREAS, the City adopted a Comprehensive Plan in 2010 to guide the development of the community; and

WHEREAS, the City has adopted a Zoning and Subdivision Ordinance and other official controls to assist in implementing the Comprehensive Plan; and

WHEREAS, Richard and Kari Stromer (the “Applicants/Owners”) have submitted a request for a variance and minor subdivision for the property located at 2828 County Line Road (PID No. 18-118-24-24-0003); and

WHEREAS, the Property is legally described on Exhibit A attached hereto; and

WHEREAS, the Property is zoned Agriculture; and

WHEREAS the requested variance and minor subdivision meets all requirements, standards and specifications of the City of Independence subdivision and zoning ordinance for Agriculture Property; and

WHEREAS the City held a public hearing on July 18, 2017 to review the application for a variance and minor subdivision, following mailed and published noticed as required by law; and

WHEREAS, the City Council has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by

Richard and Kari Stromer for a variance and minor subdivision per the City's subdivision and zoning regulations with the following conditions:

1. The proposed variance and minor subdivision request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.
2. The City finds the following existing conditions of the property support the request for a variance and are consistent with the criteria for granting a variance:
  - a. The applicants are proposing to use the property in a manner consistent with the AG - Agriculture District.
  - b. The proposed lot is consistent with the residential character of the surrounding area.
  - c. The proposed use of the property for a single-family home is generally in keeping with the City's comprehensive plan.
  - d. There is an existing creek that bisects the property and essentially separates the parcel into two areas. This separation limits accessibility of the eastern side of the property from the western side.
  - e. The property has frontage on two public roads and meets all applicable frontage requirements.
  - f. The City previously assessed the property for road improvements based on the concept that the property could be subdivided.
3. The Applicant shall provide the City with descriptions of the drainage and utility easements and execute and record the requisite drainage and utility easements with the county within six (6) months of approval.
4. The Applicant shall pay the park dedication fees in the amount of \$3,500 prior to the applicant receiving final approval to record the subdivision by the City.
5. The Applicant shall pay for all costs associated with the City's review of the requested variance and subdivision.
6. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

This resolution was adopted by the City Council of the City of Independence on this 5<sup>th</sup> day of September, 2017, by a vote of \_\_\_\_ ayes and \_\_\_\_ nays.

---

Marvin Johnson, Mayor

ATTEST:

---

Mark Kaltsas, City Administrator



## EXHIBIT A

### Proposed Tract A

*That part of the South One-Third of the East 60 rods of the Southeast Quarter of the Northwest Quarter of Section 18, Township 118, Range 24, Hennepin County, Minnesota, described as follows:*

*Beginning at the northeast corner of said South One-Third; thence on an assumed bearing of South 0 degrees 10 minutes 20 seconds West along the east line of said South One-Third a distance of 440.55 feet to the southeast corner of said South One-Third; thence South 89 degrees 06 minutes 12 seconds West along the south line of said South One-Third a distance of 606.30 feet to the centerline of a creek; thence North 33 degrees 29 minutes 45 seconds East along said centerline a distance of 74.79 feet; thence North 39 degrees 35 minutes 10 seconds East along said centerline a distance of 337.28 feet; thence northeasterly a distance of 201.28 feet along a non-tangential curve concave to the southeast having a radius of 691.00 feet and a central angle of 16 degrees 41 minutes 24 seconds, the cord of said curve is 200.57 feet in length and bears North 51 degrees 33 minutes 41 seconds East to the north line of said South One-Third; thence North 89 degrees 06 minutes 04 seconds East along said north line a distance of 194.27 feet to the point of beginning.*



---

**RESOLUTION NO. 17-0905-01**

**A RESOLUTION DENYING APPROVAL OF A VARIANCE AND MINOR SUBDIVISION  
FOR THE PROPERTY LOCATED AT 2828 COUNTY LINE ROAD**

WHEREAS, Richard and Kari Stromer (the “Applicants/Owners”) have submitted a request for a variance and minor subdivision for the property located at 2828 County Line Road (PID No. 18-118-24-24-0003); and

WHEREAS, the City’s planning commission held a public hearing to consider the application on July 18, 2017 and received testimony, written comment, and other information regarding the application; and

WHEREAS, on July 31, 2017 and September 5, 2017, the city council considered the application and concluded that the variance does not meet the criteria established for granting a variance due to the lack of unique conditions or characteristics of the subject property and passed a motion denying the Applicant’s request; and

NOW, THEREFORE, BE IT RESOLVED, by the city council of the City of Independence, that the Applicant’s variance request and subsequent minor subdivision is denied because it does not meet the criteria established for granting a variance due to the lack of unique conditions or characteristics of the subject property.

BE IT RESOLVED FURTHER THAT the city council hereby reduces its denial to writing in accordance with Minn. Stat. § 15.99, and directs the city administrator to provide this resolution to the Applicant.

This resolution was adopted by the City Council of the City of Independence on this 5<sup>th</sup> day of September, 2017, by a vote of \_\_\_\_ ayes and \_\_\_\_ nays.

---

Marvin Johnson, Mayor

ATTEST:

---

Mark Kaltsas, City Administrator

MAY 30 2017

## City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others—all applications are viewed on a case-by-case basis.

- ☐ Appeal
- ☐ Comprehensive Plan Amendment
- ☐ Concept Plan
- ☐ Conditional Use Permit
- \_\_\_ Residential
- \_\_\_ Commercial/Light Industrial
- \_\_\_ Telecommunications
- \_\_\_ Agriculture
- \_\_\_ Home Occupation
- \_\_\_ Non-Conforming Use
- \_\_\_ Guest/Bunk House
- \_\_\_ Institutional
- \_\_\_ CUP Amendment
- ☐ Extension Request
- ☐ Final Plat
- ☐ Interim Use Permit
- ☐ Lot Consolidation
- ☐ Minor Subdivision (Survey)
- \_\_\_ Lot Subdivision
- \_\_\_ Lot Combination
- \_\_\_ Lot Line Rearrangement
- ☐ Moving Buildings
- ☐ Preliminary Plat
- ☐ Rezoning
- ☐ Site Plan Review (Commercial)
- ☐ Vacation
- ☒ Variance
- \_\_\_ Subdivision Regulations
- \_\_\_ Zoning
- \_\_\_ Road Frontage
- ☐ Zoning Text Amendment

\*Please check all that apply

Request: \_\_\_\_\_

A variance to allow for  
a lot split on the  
property listed @ address  
below.

Site Address or Property Identification Number(s):

2028 County Line Rd SE Delano MN 55328  
P.I.D. 18 118 24 24 0003

NOTE: Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/or if additional information is needed to adequately review the subject request. *To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/Administrator at least one week prior to submittal.* Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

## Office Use Only

1,250.  
Application Amount

750.  
Escrow Paid

Date Accepted by Planner

City Planner

5/30/2017  
Date

2567  
Application Check #

2567  
Escrow Check #

Accepted By

**\*\*\*Note: All parties with a fee interest in the real estate must sign this application before the City will review for consideration!**

**Applicant Information:**

Name: Richard & Kar Stromer  
Address: 2828 County Line Rd SE  
City, State, Zip: Delano, Mn 55329  
Phone: KARI (612) 710-6167 (RICK) (952) 221-1313  
Email: stromerk1@gmail.com  
Signature: Kar Stromer

**Owner Information (if different than applicant)**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Signature: \_\_\_\_\_

**Checklist:** Please review the checklist that goes with the request(s) as all materials in the checklist unless waived by the City.

**Review Deadline and Timeline:** All applications must be received by the deadline according to the schedule attached hereto. Failure to submit by the date shown will result in a delay in the scheduling of the application review by Planning Commission and City Council.

---

### ***Application for Planning Consideration Fee Statement***

---

The City of Independence has set forth a fee schedule for the year 2014 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are shown at the bottom of this form. By signing this form, the applicant recognizes that he/she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: Kar Stromer  
Date: 5/25/17

Owner Signature (if different): \_\_\_\_\_  
Date: \_\_\_\_\_

## VARIANCE PROPOSAL

### Steps to Follow...

#### Written Statements...

**....3. Written statements providing information regarding your proposal. Please provide a separate answer for each of the lettered items listed below:**

a. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates

Rick & Kari Stromer  
2828 County Line Rd SE  
Delano, Mn 55328

Rick (952) 221-1313  
Kari (612) 710-6167

Wetland Delineator:  
Jeremy Donabauer  
PO Box 43  
Arlington, Mn 55407  
Phone: (320) 291-4022

Surveyor:  
Schoborg Land Surveying  
8997 County Rd 13 SE  
Delano, MN 55328  
Phone: (763) 972-3221

Septic/Soils Engineer:  
Greg Halling  
Halling Engineering, Inc.  
3727 E 255th Street Webster, MN 55088-9514  
Phone: 952-440-1680

b. A listing of the following site data: Address, current zoning, parcel size in acres and square feet, property identification number(s) (PID), current legal description(s), and existing use of land;

2828 County Line Rd SE  
Delano, Mn 55328

Zoning: Agricultural

Parcel size (acres): 19.47      Square Feet: 847,977

Property identification #: 18 118 24 24 0003

Current legal description:

The West 20 rods of the Southeast ¼ of the Northwest ¼ and the South 1 rod of the West ½ of the Northwest ¼ of Section 18, Township 118, Range 24, Hennepin County, Minnesota.

The South 1/3 of the East 60 rods of the Southeast ¼ of the Northwest ¼ of Section 18, Township 118, Range 24.

Existing use of land: Residential (1 house, 2 pole barns), Agricultural (approx. 8 acres pasture mix baled to keep land in use, prevent overgrowth)

c. State the provision(s) of the Independence City Code for which you seek a variance. (For example, subsections 530.03, 530.07, 530.

Independence City Code      500.03

Subd. 36. "Subdivision, rural view lot" means the division of a parcel of land in the Agriculture zoning district into one or more lots or parcels primarily for residential use. The resulting residential lots shall be referred to as "rural view lots." (Added, Ord. No. 2005-01)

d. A specific written description of the proposal and how it varies from the applicable provisions of Independence Code.

Independence Zoning Code      530.03 (Rev. 2011)

Current zoning states that only a parcel of 40 acres or more is allowed to subdivide a minimum of 2.5 buildable acres. We have 19.47 acres. The variance we are requesting would allow for the division of a 4-5 acre portion of the property at 2828 County Line Rd SE. The parcel portion applicable to the variance is on Nelson Rd and inaccessible to us off County Line Rd unless we drive over to Nelson Rd. A better use of the land would be for accessible residential use.

e. A narrative regarding any pre-application discussions with staff, and an explanation of how the issue was addressed leading up to the application for a variance.

We have talked with the city planner about the process of a variance request and were met with willingness to help in anyway possible within the city planners' abilities. An initial meeting with Mark Kaltsas was set up to go over our variance proposal. Variance paperwork was reviewed and we were informed of next steps to submit an application.



- Describe how the literal interpretation of the provisions of the zoning code would cause undue hardship, deprive you of rights commonly enjoyed by other properties in the same district under the terms of this zoning code and leave you with no reasonable use of the land. The hardship must not have been created by you, the applicant.

Dan & Denise Esler, our neighbors to the south, were able to subdivide their property to build a house off of Maria Rd in 1991. An existing house was already located on Nelson Rd. They also had less than 40 acres (10.09 acres) before they subdivided their property. They divided their portion of 5.37 acres off of 10.09 acres and sold 4.79 acres. With current land layout we are unable to access our property off of Nelson Rd due to a stream and tree line that separates the property. A right commonly shared by most residents is convenient access to all areas of their property to insure best use of the land.

- Explain why the conditions causing the hardship are unique to the property and are not shared by neighboring properties in the same zone. Also explain why exceptional or extraordinary circumstances apply to the property, that do not apply generally to other properties in the same zone, and result from lot size or shape, topography, or other circumstances over which you or the owners of the property, since enactment of the applicable zoning restriction, have no control.

A stream and a tree line divide the property, making it inaccessible to us unless we drive around to Nelson Rd. If we were to drive our tractor/lawn mower over to Nelson Rd for basic upkeep for that portion of the parcel, it would require driving 1.7 mi on Hwy 12 (MN deadliest hwy). Another option is to drive south on County Line Rd to Nelson Rd, which is a 3.4 mile drive. Neither of these options allows convenient access to our property.

- Address how the variance would be in keeping with the spirit and intent of this zoning code, would be consistent with the comprehensive plan, and would not essentially alter the character of the neighborhood, or adversely affect the environmental quality of the area.

The surrounding parcels are currently residential, as this would be too. Ariel view would show plots to the East to be smaller. A parcel just south of the (parcel requesting variance) would be similar in size and shape. Parcels further north and south are larger. Another residence in a spacious neighborhood would not have a negative impact on environmental quality. The new resident, as well as existing residents, would be required to stay within the environmental standards, character and comprehensive plan of the neighborhood. The variance would allow for the building of a single-family dwelling on a parcel with access to natural gas and electricity lines.

As stated in the zoning code:

- 1] {530.05 Subd. 2. Permitted uses.} The following uses are permitted in the rural residential district: (a) **single family dwellings**; (b) commercial agriculture; (c) public recreation;
- 2] {530.07. Physical standards. Subdivision 1.} All construction in the rural residential district must meet the following physical standards: (Added, Ord. 2010-01)

(a) **Minimum lot area a 2.50 acres buildable land. (Added, Ord. 2010-01)}**

**\*SEE ATTACHED LAND SURVEY\***

- 3] {530.11 Subd. 4(a) (Rev. 2012)}

... (c) **Storm Water Management.** Due to the sensitive nature of the natural resources in Independence, the applicant shall place an emphasis on meeting all applicable storm water management rules and regulations pertaining to the proposed planned development. Incorporation of best management practices and innovative solutions to storm water management will be encouraged.

\* Leaving the stream and tree line as is, would be the in the best interest for ideal storm water management. However, the current stream and tree line do not allow for convenient property access to parcel on Nelson Rd. Therefore, selling the parcel for a single family dwelling would be the best use

of the land, rather than filling the stream in to create convenient access to the land.

4] {Independence Zoning Code 530.07 Subd. 4(a)(3) (Rev. 2010)}

*Buildable acreage must not be separated by streams, wetlands, slopes in excess of 10% or other physical impediments;*

\* This would make the parcel on Nelson Rd usable for buildable acreage. Currently it can only be used for agriculture purposes due to natural impediments (ie. stream, tree line). If we were to keep the current property as is, with no subdividing, it would be a poor fit for use as buildable acres.

• Please explain why the variance would not allow any use that is not permitted under the zoning code for a property in the zone your land is located.

The variance would allow for a sale of a parcel on Nelson Rd for the use of a single-family dwelling/ residence. This is similar to the use for the parcels in the area. Any new resident would also be required to remain in the confines of the current zoning code once the property was individually established apart from our property.

• Provide justification that the variance request is not based exclusively upon a desire to increase the value or income potential of the parcel of land.

The parcel is currently being used for farming. A variance allowing building of a single-family dwelling, would be of better use. Hennepin County defines the soil type, on the parcel located on Nelson Rd, to be L24A (Glencoe Clay Loam). This is not considered prime farmland due to soil classification being #2 farm type. Hennepin County states that #2 farm type is only prime if well drained. Looking at the soil maps on Hennepin County's website, the parcel on Nelson Rd is described as "Very poorly drained."

\*SEE SOILS INSERT\*

• Please describe the cause(s) of this hardship (who or what created the current nonconformity).

The current 19.47 acre parcel of land is divided by a tree line and a stream making it inaccessible unless we drive around to Nelson Rd. This was created by nature with the tree growth and need for natural water run off for the land of surrounding properties.

• Justify that the granting of the requested variance **will not**: 1) adversely affect the health or safety of persons residing or working in the neighborhood; 2) alter the essential character of the neighborhood; 3) impair an adequate supply of light and air to adjacent properties; 4) be injurious to property or improvements in the neighborhood; 5) increase the congestion on public streets; 6) endanger public safety; 7) or substantially diminish or impair property values within the neighborhood.

1) If the variance were granted, it will not affect the health or safety of persons residing or working in the neighborhood because it will match the surrounding properties.

2) The essential character of the neighborhood is residential homes, which would be the intended use of this new parcel.

3) The parcel has existing trees on three sides, and Nelson Rd on the fourth. Thus, creating no new change in light supply or affect to the airflow to neighboring properties.

4) The variance would allow for residential use similar the surrounding properties, which wouldn't be



injurious to future improvements to properties within the neighborhood.

5) Adding one additional residence to Nelson Rd would not increase the traffic flow to the point of causing problems because the residence would be for a single-family dwelling.

6) The new parcel would not be different than surrounding properties, thus creating no new dangers to public safety.

7) Property values in the area would not negatively change due to the variance being passed. The parcel would be for a new single-family dwelling unit.





111

- Found Iron Monument
- Set Iron Monument (LS 14700)

**SCALE**

60      0      30      60      120

1 inch = 60 feet

Beginning at the northeast corner of said South One-Third; thence on an assumed bearing of South 0 degrees 10 minutes 20 seconds West along the east line of said South One-Third a distance of 440.55 feet to the southeast corner of said South One-Third; thence South 89 degrees 06 minutes 12 seconds West along the south line of said South One-Third a distance of 606.30 feet to the centerline of a creek; thence North 33 degrees 29 minutes 45 seconds East along said centerline a distance of 74.79 feet; thence North 39 degrees 35 minutes 10 seconds East along said centerline a distance of 337.28 feet; thence northeasterly a distance of 101.26 feet along a non-tangential curve concave to the south, having a radius of 691.00 feet and a central angle of 16 degrees 41 minutes 24 seconds, the cord of said curve is 200.57 feet in length and bears North 51 degrees 33 minutes 41 seconds East to the north line of said South One-Third; thence North 89 degrees 06 minutes 04 seconds East along said north line a distance of 194.27 feet to the point of beginning.

Found Iron Monument  
Set Iron Monument (LS 14700)

SCALE  
0 30 60 120  
1 inch = 60 feet

Third of the Southeast Quarter of the  
on 18, Township 118, Range 24, Hennepin  
d as follows:

ast corner of said South  
an assumed bearing of South 0  
seconds West along the east  
Third a distance of 440.55 feet  
of said South One-Third;  
as 06 minutes 12 seconds West  
said South One-Third a  
to the centerline of a creek;  
is 29 minutes 45 seconds East  
distance of 74.79 feet; thence  
minutes 10 seconds East along  
ce of 337.28 feet; thence  
e of 201.28 feet along a  
concave to the southeast having  
and a central angle of 16  
seconds, the cord of said  
length and bears North 51  
seconds East to the north line  
d; thence North 89 degrees 06  
st along said north line a  
t to the point of beginning.

ny Donabauer  
c.

Prepared for:  
Kari Stromer

Proposed  
Tract A

Total Area = 4.32 acres  
Upland Area = 2.76 acres (excluding RW)

NE cor. of S. 1/2 of SE 1/4 of NW 1/4  
N89°06'04"E 194.27  
161.51  
P.O.B.  
33  
Centerline  
Right-of-Way  
Nelson Road  
S070°20'W 440.55  
E. line of SE 1/4 of NW 1/4  
33  
S. line of SE 1/4 of NW 1/4  
SE cor. of S. 1/2 of SE 1/4 of NW 1/4  
S89°06'12"W 606.30  
570.59  
Fence  
N33°29'45"E 74.79  
Centerline of Creek  
N39°35'10"E 337.28  
L=201.28 Δ=16°41'24" R=691.00  
N51°33'41"E 200.57  
Edge of Delineated Wetland

*Aerial photo obtained from Hennepin County website. Bearings based on assumed datum.*

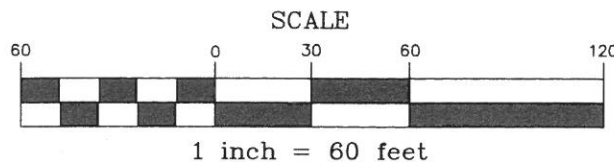
Job Number:	8416
Book/Page:	LL
Survey Date:	4/21/17
Drawing Name:	stromer.dwg
Drawn by:	DMS
Revisions:	

# Certificate of Survey

Prepared for:  
Kari Stromer

## Legend

- Found Iron Monument
- Set Iron Monument (LS 14700)



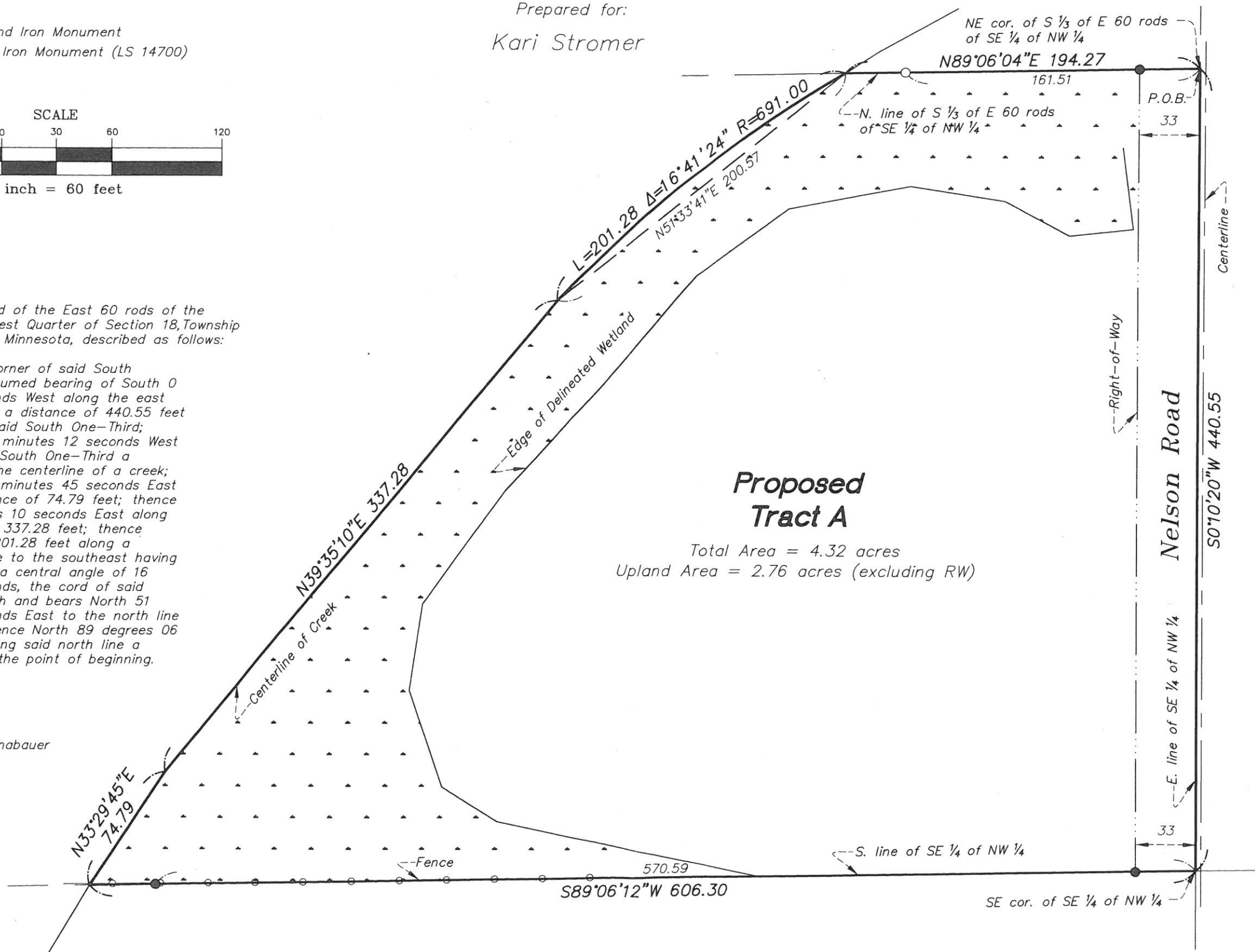
## Proposed Tract A

That part of the South One-Third of the East 60 rods of the Southeast Quarter of the Northwest Quarter of Section 18, Township 118, Range 24, Hennepin County, Minnesota, described as follows:

Beginning at the northeast corner of said South One-Third; thence on an assumed bearing of South 0 degrees 10 minutes 20 seconds West along the east line of said South One-Third a distance of 440.55 feet to the southeast corner of said South One-Third; thence South 89 degrees 06 minutes 12 seconds West along the south line of said South One-Third a distance of 606.30 feet to the centerline of a creek; thence North 33 degrees 29 minutes 45 seconds East along said centerline a distance of 74.79 feet; thence North 39 degrees 35 minutes 10 seconds East along said centerline a distance of 337.28 feet; thence northeasterly a distance of 201.28 feet along a non-tangential curve concave to the southeast having a radius of 691.00 feet and a central angle of 16 degrees 41 minutes 24 seconds, the cord of said curve is 200.57 feet in length and bears North 51 degrees 33 minutes 41 seconds East to the north line of said South One-Third; thence North 89 degrees 06 minutes 04 seconds East along said north line a distance of 194.27 feet to the point of beginning.

## Note:

Wetland delineated by Jeremy Donabauer of A.G. Wetland Services, Inc.



## Proposed Tract A

Total Area = 4.32 acres  
Upland Area = 2.76 acres (excluding RW)

Job Number: 8416  
Book/Page: LL  
Survey Date: 4/21/17  
Drawing Name: stromer.dwg  
Drawn by: DMS  
Revisions: 5-04-17 (description)

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

*Paul B. Schoborg*  
Paul B. Schoborg

Date: MAY 4, 2017 Registration No. 14700

**SCHOBORG**  
**LAND SERVICES**  
**INC.**

763-972-3221 8997 Co. Rd. 13 SE  
www.SchoborgLand.com Delano, MN 55328

Bearings based on assumed datum.

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL OF THE CITY OF  
INDEPENDENCE, HENNEPIN COUNTY, STATE OF MINNESOTA.

→ SEPTEMBER 25, 1990

1. CALL TO ORDER

The regular meeting of the City Council of the City of Independence was called to order at 7:30 p.m. by Mayor Marvin D. Johnson.

Present: Mayor Marvin D. Johnson; Councilmembers: Kay Gabriel, LeRoy Haglund, Leverage Vassar, Tom Young; also present: Jack Vigoren, City Attorney.

2. APPROVAL OF MINUTES

Motion by Young, second by Haglund to approve the minutes of September 10, 1990 as printed; all ayes, motion declared carried.

3. ASSESSMENT HEARING - BROADMOOR DRIVE

Dan Naughton, engineer with Schoell & Madson, reviewed the project. The preliminary cost at the time of the feasibility report came in at \$4624 per unit. The actual assessment is at \$4330 per unit or \$294 under costs estimated. The total project cost was \$94,180 with the city contributing \$10,472 in addition to 25% of final assessment figure resulting in 75% being assessed to benefitting property owners.

No written objections were received.

Mike Wenger, 5175 Broadmoor Drive was present with questions about restoration. He had a concern as to seeding at this time of the year and it not growing. It was suggested that the contractor could dormant seed this fall and hold the contractor to a 30 day maintenance period in the spring.

Greg Krause, 962 County Road 19, was present with a concern about a drainpipe that should be capped and landscaped.

Motion by Gabriel, second by Haglund to close the public hearing; all ayes, motion declared carried.

Haglund introduced the following resolution, second by Young:

RESOLUTION NO. 90-0925-01  
RESOLUTION ADOPTING ASSESSMENT

WHEREAS, pursuant to proper notice duly given as required by law, the council has met and heard and passed upon all objections to the proposed assessment for the improvement of Broadmoor Drive from County Road 19 east to Townline Road,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF



## INDEPENDENCE, MINNESOTA:

1. Such proposed assessment, a copy of which is on file with the City Clerk and detailing the total costs spread over 14.5 units at a cost per unit of \$4330, is hereby accepted and shall constitute the special assessment against the lands named therein, and each tract of land therein included is hereby found to be benefited by the proposed improvement in the amount of the assessment levied against it.
2. Such assessment shall be payable in equal annual installments extending over a period of ten (10) years, the first of the installments to be payable on or before the first Monday in January, 1991 and shall bear interest at the rate of 8.50% per annum from the date of the adoption of this assessment resolution. To the first installment shall be added interest on the entire assessment from the date of this resolution until December 31, 1990. To each subsequent installment when due shall be added interest for one year on all unpaid installments.
3. The owner of any property so assessed may, at any time prior to certification of the assessment to the county auditor, pay the whole of the assessment on such property, with interest accrued to the date of payment, to the city treasurer, except that no interest shall be charged if the entire assessment is paid within 30 days from the adoption of this resolution; and he may, at any time thereafter, pay to the city treasurer the entire amount of the assessment remaining unpaid, with interest accrued to December 31 of the year in which such payment is made. Such payment must be made before November 15 or interest will be charged through December 31 of the next succeeding year.
4. The clerk shall forthwith transmit a certified duplicate of this assessment to the county auditor to be extended on the property tax lists of the county. Such assessments shall be collected and paid over in the same manner as other municipal taxes.

Upon vote being taken, the following voted in favor: Johnson, Gabriel, Haglund, Vassar, Young; against: none; whereupon said resolution was declared passed and adopted.

→ 4. ASSESSMENT HEARING - NELSON ROAD

Dan Naughton, engineer with Schoell & Madson, reviewed project construction and costs. The total amount of the project came in at \$227,800 with the city contributing \$40,000 from the maintenance budget. Originally there were proposed 34 assessable units resulting in an estimated project cost of \$4264. The notice of hearing on proposed assessment used 32 units for a proposed assessment of \$4402. Two units had been deleted as a result of property divisions that had occurred.

Jacob Thomas, 2828 County Line Road, was present. He did not believe that he would have a benefit as he accesses his property from Maria Road. The Building Inspector inspected this property

and made some shallow soil samples. He observed that the area west of the drainage ditch could support an on-site septic system for one house.

Bob Glavas, representing his daughter Deborah of 2590 Nelson Road, was present and had questions of the council and the engineer regarding the raising of the road and drainage. He is asking that 2590 Nelson Road be eliminated from the assessment because of damage resulting to this property as a result of the road construction.

Steve Hansen, 2888 Nelson Road, was present and expressed concern about the businesses operating on either side of his property. He believes these properties should be assessed at a higher rate as they are generating a commercial usage on to the road and have a greater benefit.

Kathy Illig expressed a concern about the traffic coming off the asphalt on to the gravel and the drop in the road. The engineer explained that a transitional slope will be put on.

Art Ahlstrom, 2858 Nelson Road, was concerned about the communication problems that were evident with the project.

The Mayor read into the record letters objecting to the assessment: (Gene Cook, 2389 Nelson Road, withdrew his letter)  
Letters Received From: Deborah Glavas, 2590 Nelson Road;  
Steven C. Hansen, 2888 Nelson Road.

George Ross, 2376 Nelson Road, was opposed to paying 1.5 assessment units. A part of his property (the .5 unit) was recently purchased from George Ramola. He said that in the future, if the blacktopping of Nelson Road were to continue to County Road 6, he would then be willing to pay. The Mayor expressed the belief that if the City had been aware of Ross' intent to purchase initially at the public hearing, the result may have been different.

Motion by Vassar, second by Haglund to close the public hearing; all ayes, motion declared carried.

Haglund introduced the following resolution, second by Vassar:

RESOLUTION NO. 90-0925-01  
RESOLUTION ADOPTING ASSESSMENT

WHEREAS, pursuant to proper notice duly given as required by law, the council has met and heard and passed upon all objections to the proposed assessment for the improvement of Nelson Road between U. S. Highway No. 12 southerly to the southern most boundary line of 2389 Nelson Road.



# City of Independence

## Discussion/Consideration of Ordinance Adoption – Massage Services Ordinance

---

*To:* City Council  
*From:* Mark Kaltsas, City Administrator  
*Meeting Date:* September 5, 2017

### ***Discussion:***

#### **Massage Services**

West Hennepin Public Safety has worked with the City of Maple Plain to adopt an ordinance regulating the licensing of massage services parlors. The ordinance was developed following difficulties the City and West Hennepin had with non-legitimate massage parlors. West Hennepin would like the City to consider adopting a similar ordinance for the purpose of regulating the licensing of massage services parlors in Independence.

The basis of the ordinance is to regulate the licensing of individuals and business providing massage services in the City. The City has reviewed the ordinance adopted by the City of Maple Plain and believes that it could adopt similar language in order to regulate licensing of legitimate businesses and individuals. WHPS has reviewed the ordinance and believes that adoption of the ordinance would better protect the City and its residents. Staff is seeking discussion and direction from the City Council relating to the possibility of adopting an ordinance similar to that adopted in Maple Plain.

Council reviewed a draft ordinance at its April 2017 meeting and provided direction to staff to revise the ordinance. Based on the discussion and direction provided by the City Council, staff has prepared a revised ordinance with the following changes:

1. Changed "Clerk" to "Administrator".
2. City reviewed the time period for reviewing an application and is recommending that the language included provides an adequate review period.
3. Reviewed insurance requirements in comparison to similar licensing (including liquor license insurance requirements) and found \$1,000,000 to be consistent.
4. Reviewed employment history background review requirement (currently proposed to be 5 years). Five years is consistent with the City's liquor license requirement.
5. Updated language pertaining to what types of criminal background needs to be disclosed on the application.
6. Updated language to expand delinquent taxes section to include delinquent utilities or similar outstanding fees as a reason for denial.
7. Reviewed zoning ordinance pertaining to whether or not massage services could be provided as a home occupation. A person would likely not be able to operate a full massage business as a home occupation based on the existing criteria established in the ordinance. These provisions include a maximum of one employee, "limited" clients or patients allowed to visit the premise. Staff will seek



additional direction relating to whether or not any additional restrictions should be placed on a licensed massage therapist?

***Recommendation:***

The City Council is being asked to discuss the aforementioned ordinances and provide feedback and direction to staff.

**Attachments:** ORDINANCE NO. 2017-04 Massage Services Ordinance  
ORDINANCE NO. 2017-05 Summary Massage Services Ordinance

**ORDINANCE NO. 2017-04**

**CITY OF INDEPENDENCE**

**COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**ORDINANCE AMENDING CHAPTER 11 OF THE CITY CODE  
TO ESTABLISH REGULATORY CRITERIA FOR MASSAGE PARLORS**

THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, HEREBY ORDAINS:

SECTION 1. Chapter 11 of the Independence City Code shall be amended by adding the following regulations pertaining to massage parlors:

1140.01. Purpose. The purpose of this section of the City Code is to prohibit massage businesses and services to the public except those licensed by the city as therapeutic massage enterprises and massage therapists pursuant to this section. The licensing regulations prescribed herein are necessary in order to protect businesses that are operating legitimate enterprises, to prevent criminal activity, and to protect the health and welfare of the community. The purpose of this section is not to impose restrictions or limitations on the freedom of protected speech or expression.

1140.03. Findings. The City Council of the City of Independence makes the following findings regarding the need to license therapeutic massage enterprises and therapists and to prohibit all other types of massage businesses and services to the public:

- (a) Persons who have bona fide and standardized training in therapeutic massage, health, and hygiene can provide a legitimate and necessary service to the general public.
- (b) Health and sanitation regulations governing therapeutic massage enterprises and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
- (c) License qualifications for the restrictions on therapeutic massage enterprises and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.

- (d) Massage services provided by persons with no specialized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
- (e) Massage businesses which employ persons with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
- (f) The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

1140.05. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

Subd. 1. “Accredited Institution” means an educational institution holding accredited status with the United States Department of Education.

Subd. 2. “Accredited Program” means a professional massage program accredited by the Commission on Massage Therapy Accreditation (COMTA).

Subd. 3. “Business License” means the individual who has obtained a valid therapeutic massage enterprise license from the city, on behalf of himself or herself or on behalf of a business entity, and is designated to be responsible for the enterprise’s compliance with all aspects of this section.

Subd. 4. “Clean” means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

Subd. 5. “Good Repair” means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

Subd. 6. “Issuing Authority” means the City of Independence.

Subd. 7. “Massage” means any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or arms with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such

supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

Subd. 8. “Massage Therapist” means an individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

- (a) Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of massage;
- (b) Is affiliated with, employed by, or owns a therapeutic massage enterprise licensed by the city; and
- (c) Has completed 500 hours of certified therapeutic massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, massage theory and research, and massage practice from an accredited program or accredited institution that has been approved by the issuing authority. These training hours must be authenticated by a single provider through a certified copy of the transcript of academic record from the school issuing the training, degree or diploma.

Subd. 9. “Operate” means to own, manage, or conduct, or to have control, charge, or custody over.

Subd. 10. “Person” means any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

Subd. 11. “Therapeutic Massage Enterprise” means an entity which operates a business which hires only licensed therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public. A therapeutic massage enterprise may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a massage therapist license as long as they are not providing therapeutic massage to the public.

Subd. 12. “Within the City” means physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the city, serves as a point of assignment of employees who respond to requests for services from within the city.

1140.07. License Required.

- (a) ***Therapeutic massage enterprise license.*** It shall be unlawful for any person or entity to own, operate, engage in, or carry on, within the city, any type of massage services to the public for consideration without first having obtained a therapeutic massage enterprise license from the city pursuant to this section.
- (b) ***Massage therapist license.*** It shall be unlawful for any individual to practice, administer, or provide massage services to the public for consideration within the city without first having obtained a massage therapist license from the city pursuant to this section.

1140.09. Exceptions. A therapeutic massage enterprise or therapist license is not required for the following persons and places:

- (a) Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the massage is administered in the regular course of the medical business and not provided as part of a separate and distinct massage business.
- (b) Persons duly licensed by this state as beauty culturists or barbers, provided such persons do not hold themselves out as giving massage treatments and provided the massage by beauty culturists is limited to the head, hand, neck, and feet and the massage by barbers is limited to the head and neck.
- (d) Places licensed by this state as a “Salon” pursuant to Minnesota State Statute 155A.29, provided such places do not hold themselves out as offering massage treatments and provided the massage by salon employees is limited to the head, hand, neck, and feet.
- (e) Persons working solely under the direction and control of a person duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry.
- (f) Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
- (f) Students of an accredited institution who are performing massage services in the course of a clinical component of an accredited program of study,

provided that the students are performing the massage services at the location of the accredited institution and provided the students are identified to the public as students of massage therapy. Students of an accredited institution who are performing massage services at clinics or other facilities located outside of the accredited institution must have at least 150 hours of certified therapeutic massage training at the accredited institution prior to performing the therapy outside of the institution, must have proof of liability insurance, and must be identified to the public as a student of massage therapy.

1140.11. License Application. Subdivision 1. Therapeutic massage enterprise license application. An application for a therapeutic massage enterprise license shall be made on a form supplied by the city and shall request the following information:

- (a) ***All applicants.*** For all applicants:
  - (1) Whether the applicant is an individual, corporation, partnership, or other form of organization.
  - (2) The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
  - (3) The floor number, street number, and rooms where the massage services are to be conducted.
  - (4) Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
  - (5) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the city's building and inspection department, no plans need be submitted to the issuing authority.
  - (6) The name and street address of the business if it is to be conducted under a designation, name, or style other than the name of the

applicant, and a certified copy of the certificate as required by Minn. Stat. § 333.02.

- (7) The amount of the investment that the applicant has in the business, buildings, premises, fixtures, furniture, and equipment, and proof of the source of such investment. The identity of all other persons investing in the business, building, premises, fixture, furniture and equipment, the amount of their investment and proof of the source of such investment.
  - (8) All applications for licenses, whether enterprise or individual applications, shall be signed and sworn to. If the application is that of a natural person, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial of the license.
  - (9) The full name, place and date of birth, and street residence address of the designated business licensee along with a color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Director of the West Hennepin Public Safety Department, the department may take photographs for the file.
  - (10) All applicants shall agree, in writing, to submit to a criminal background check.
  - (11) Such other information as the City Council or issuing authority shall require.
- (b) ***Individuals.*** For applicants who are individuals:
- (1) The full name, place and date of birth, and street residence address of the applicant, who shall also be the designated business licensee, along with a copy of a valid identification card, as required under section 1140.11, (a), (9).

- (2) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
  - (3) Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
  - (4) Street addresses at which the applicant has lived during the preceding five years.
  - (5) The type, name, and location of every business or occupation the applicant has been engaged in during the preceding five years.
  - (6) Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
  - (7) Names and addresses of the applicant's employers for the preceding five years.
  - (8) Whether the applicant has ever been convicted of any felony, gross misdemeanor, misdemeanor, crime, or violation of any ordinance, including traffic offenses and, if so, the time, place, and offense for which convictions were had.
  - (9) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.
  - (10) Whether the applicant has ever been engaged in the operation of massage services. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment.
- (c) **Partnerships.** For the applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in paragraph (2) of this section of this Code. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted



with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stat. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

(d) ***Corporations and other organizations.*** For applicants that are corporations or other types of organizations:

- (1) The name of the organization, and if incorporated, the state of incorporation.
- (2) A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Stat. § 303.02.
- (3) The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in paragraph (2) of this section of this Code.
- (4) A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in paragraph (2) of this section of this Code.

Subd. 2. Massage therapist license application.

- (a) An application for a massage therapist license shall be made on a form supplied by the City Administrator and shall request the following information:
- (1) The applicant's name and current address.
  - (2) The applicant's current employer.
  - (3) The applicant's employers for the previous five years, including the employer's name, address and dates of employment.
  - (4) The applicant's addresses for the previous five years.

- (5) The applicant's date of birth, home telephone number, weight, height, color of eyes, and color of hair. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Director of the West Hennepin Public Safety Department, the department may take photographs for the file.
- (6) Whether the applicant has ever been convicted of any felony, gross misdemeanor, misdemeanor, crime, or violation of any ordinance, including traffic offenses and, if so, the time, place, and offense for which convictions were had.
- (7) Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority.
- (8) The names, resident and business addresses of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to as the applicant's character.
- (9) Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
- (10) Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
- (11) Whether the applicant has met the definition of a massage therapist in section 1140.05, Subd. 8, of this Code.
- (12) All applicants shall agree, in writing, to submit to a criminal background check.
- (13) Such other information as the City Council or issuing authority shall require.

1140.13. Subdivision 1. License Fees. The fees for a therapeutic massage enterprise and therapist licenses shall be as set from time to time by the City Council. An investigation fee shall

be charged for therapeutic massage enterprise licenses and an individual therapeutic massage license. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. No investigation fee shall be refunded.

Beginning in 2017, the first year of massage therapy licensing, license fees for new enterprises and individuals shall be pro-rated based on the annual fee. Licenses approved for 2017 will be effective September 1 through December 31, 2017. Thereafter the full license fee will be charged on an annual basis regardless of when the application is received. Background investigation fees will not be pro-rated for a new application.

1140.15. License Application Verification and Consideration.

(a) ***Verification of information in therapeutic massage enterprise license and massage therapist license.***

- (1) All applications shall be referred to the Director of the West Hennepin Public Safety Department, or his or her designee, and such other city departments as the city administrator shall deem necessary for verification and investigation of the facts set forth in the application. The Director, or his or her designee, is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant. The Director, or his or her designee, is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy.

(b) ***Consideration of application.***

- (1) Within a reasonable period after receipt and verification of a complete therapeutic massage enterprise license application or a massage therapist license application and receipt of the applicable fees, the Director, or his or her designee, and other consultants shall make a written recommendation to the City Council as to the issuance or non-issuance of the license. The City Council may order and conduct such additional investigation as it deems necessary. Upon completion of its investigation, the council shall grant or deny the license. Notice shall be sent by the City Administrator by regular mail to the applicant upon a denial informing the applicant of the right to appeal to the City Council

within 20 days. If an appeal is properly made, the matter shall be placed on the next available City Council agenda.

- (c) ***Photo I.D. cards.*** Photo identification cards shall be issued to individuals receiving a therapeutic massage enterprise license and to those receiving a massage therapist license.

1140.17. Persons Ineligible for License

- (a) ***Therapeutic massage enterprise license.*** No therapeutic massage enterprise license shall be issued to an individual or entity operated by an individual who:
  - (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;
  - (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3;
  - (3) Has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority;
  - (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
  - (5) Is not of good moral character or repute;
  - (6) Is not the real party in interest of the enterprise;
  - (7) Has knowingly misrepresented or falsified information on the license application;
  - (8) Cannot meet the definition of therapeutic massage enterprise in section 1140.05, Subd. 11 of this Code;

- (9) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent; or
  - (10) Is the spouse of a person whose massage-related license has been suspended or revoked in the past five years.
- (b) ***Massage therapist license.*** No massage therapist license shall be issued to a person who:
- (1) Is not 18 years of age or older at the time the application is submitted to the issuing authority;
  - (2) Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3;
  - (3) Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, enterprise, business or firm, a massage license that was revoked or suspended within the last five years of the date the license application is submitted to the issuing authority;
  - (4) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States;
  - (5) Is not of good moral character or repute;
  - (6) Has knowingly misrepresented or falsified information on the license application;
  - (7) Is not affiliated with, employed by, or does not own a therapeutic massage enterprise licensed by the city; or
  - (8) Cannot meet the definition of massage therapist in section 1140.05, Subd. 8, of this Code.

1140.19. Locations Ineligible for Therapeutic Massage Enterprise License.

- (a) ***Delinquent financial claims.*** No therapeutic massage enterprise shall be licensed if such enterprise is located on property on which taxes,

assessments, utility bills or other financial claims to the state, county, school district, or city are due and delinquent. In the event a suit has been commenced under Minn. Stat. §§ 278.01—278.13, questioning the amount or validity of taxes, the City Council may, on application, waive strict compliance with this provision; no waiver may be granted, however, for taxes or any portion thereof, which remain unpaid for a period exceeding one year after becoming due.

- (b) ***Improper zoning.*** No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with the city's zoning code.

1140.21. License Restrictions.

- (a) ***Posting and production of license.*** A therapeutic massage enterprise license issued must be posted in a conspicuous place on the premises for which it is used. Upon the demand of the City Administrator or a licensed peace officer, a therapeutic massage enterprise must also immediately produce a current and complete list of all licensed massage therapists who are employed by the therapeutic massage enterprise. A person licensed as a massage therapist shall also post his or her massage therapist license, with color photo, in a conspicuous place on the premises at which the therapist is associated. A massage therapist shall produce his or her massage therapist license upon demand by the City Administrator or a licensed peace officer.
- (b) ***Licensed premises.*** A therapeutic massage enterprise license is only effective for the compact and contiguous space specified in the approved license application. If the licensed premises is enlarged, altered, or extended, the licensee shall inform the City Administrator within ten business days. It shall be the continuing duty of each licensee to properly notify the City Administrator, within ten business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license.
- (c) ***Transfer of license prohibited.*** The license issued is for the person or the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

- (d) ***Affiliation with enterprise required.*** A massage therapist shall be employed by, affiliated with, or own a massage enterprise business licensed by the city.
- (e) ***Employment of unlicensed massage therapists prohibited.*** No therapeutic massage enterprise shall employ or use any person to perform massage who is not licensed as a therapeutic massage therapist under this section.
- (f) ***Coverage of genitals during massage.*** The licensee shall require that the person who is receiving the massage shall at all times have his or her genitals covered with non-transparent material or clothing.
- (g) ***Therapist dress/uniform requirements.*** Any massage therapist performing massage shall at all times be dressed professionally, shall have his or her breasts, buttocks, anus, and genitals covered with non-transparent material or clothing.
- (h) ***Effect of license suspension or revocation.*** No licensee shall solicit business or offer to perform massage services while under license suspension or revocation by the city.
- (i) ***Massage of certain body parts prohibited.*** At no time shall the massage therapist intentionally massage or offer to massage the penis, scrotum, anus, mons veneris, vulva, or vaginal area of a person.
- (j) ***Restrictions regarding hours of operation.*** No therapeutic massage enterprise shall be open for business, nor will any therapeutic massage therapist offer massage services, before 7:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 7:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.
- (k) ***Restrictions regarding use of the business premises outside of business hours.*** No licensee shall permit any person to occupy the business premises outside of business hours, unless it is to complete the support activities outlined in section 1140.21, Subd. (j). No licensee shall permit any person to reside at the business premises.
- (l) ***Proof of local residency required.*** In the case of a therapeutic massage enterprise, the licensee, operator, managing partner, or manager of the

licensed premise must show proof of residency in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin. In the case of therapeutic massage therapists, the licensee must show proof of residing in one of the following counties: Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright in Minnesota, and St. Croix or Pierce in Wisconsin.

- (m) ***Inspections.*** In light of the high risk of involvement with illegal conduct an establishment providing massage therapy poses to the general public and in the interests of public safety, the issuing authority, environmental health department or designee, and/or the West Hennepin Public Safety Department shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section and any other applicable sections of the city code and state building code. Any searches of the licensed premises are subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require either consent, exigent circumstances, or a search warrant. With reasonable notice, the business records of the licensee, including income tax returns, shall be available for inspection during the hours in which the licensed premises is open for business. The licensee is subject to a \$250.00 fee for a third inspection, if orders to correct are issued to the licensee and those orders are not corrected upon re-inspection. Licenses shall be granted only to establishments which can meet the safety and sanitary requirements of the city and of the building code regulations of the city and state.
- (n) ***Posting of rates.*** All massage enterprise businesses must post their rates for service in a prominent place in the entrance or lobby of the business.
- (o) ***Illegal activities.*** In addition to the license restrictions set forth in this section, any advertising by a licensee of any potential unlawful or erotic conduct at the licensed establishment shall be prohibited. A licensee under this chapter shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.



- (p) ***Restrictions involving minors.*** No person under the age of 18 shall be permitted at any time to be in or on the licensed premises as a customer, guest, or employee, unless accompanied by his/her parent or guardian.

1140.23. Restrictions Regarding Sanitation, Health, and Safety

- (a) ***Toilet room requirements.*** A licensed therapeutic massage enterprise shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept clean and in good repair and shall be adequately lighted.
- (b) ***Paper/linen requirements.*** A licensed therapeutic massage enterprise shall provide single-service disposal paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the massage; or in the alternative, if the table, chair, or furniture on which the patron receives the massage is made of material impervious to moisture, such table, chair, or furniture shall be properly sanitized after each massage.
- (c) ***Washing of hands required.*** The massage therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
- (d) ***Door latches and locks.*** Doors on massage therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for massage therapy.

1140.25. Term, Renewal of License

- (a) The term of a massage therapist license and a therapeutic massage enterprise license is one year. If an individual or enterprise submits an application any time during a calendar year, the term shall expire December 31 of the year of issuance. The license fee for a partial calendar year may be pro-rated to one-half of the annual fee if an application is filed with the issuing authority after June 30.
- (b) Licenses must be renewed annually. A massage therapist license issued under this section shall expire on December 31 of the year of issuance of

the license. A therapeutic massage enterprise license issued under this section shall expire on December 31 of the year of issuance. An application for the renewal of an existing license shall be made at least 75 days prior to the expiration date of the license and shall be made in such form as the issuing authority requires.

- (c) An application for a renewal of an enterprise or individual license shall be made in the same manner as the original application. The license and investigation fees for a renewal shall be the same as those contained in section 1140.03, Subd. 1. If the license holder is a corporation, licenses must also be renewed within 30 days whenever more than ten percent of the corporation's stock is transferred. If the license holder is a partnership, the license must also be renewed within 30 days whenever a new partner is added to the partnership. If the license holder is an LLC, the license must be renewed within 30 days whenever a change in membership or chief manager occurs.
- (d) After the completion of the renewal license verification process, the issuing authority shall present the license application to the City Council in accordance with this section. If the application is denied, the City shall notify the applicant of the determination in writing and by regular mail to the address provided on the application form. The notice shall inform the applicant of the right, within 20 days after receipt of the notice by the applicant, to request an appeal of the denial to the City Council. If an appeal to the City Council is timely received by the City, the hearing before the City Council shall take place within a reasonable period of receipt of the appeal by the issuing authority.

1140.27. Sanctions for License Violations

- (a) ***Suspension or revocation.*** The City Council may impose an administrative penalty, suspend or revoke a license issued pursuant to this section, at its discretion, for:
  - (1) A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
  - (2) A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

- (3) Any violation of this section or state law.
  - (4) A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
  - (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
  - (6) If the owner, operator, manager, lessee or any of the employees are found to be in control or possession of an alcoholic beverage, a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription.
  - (7) If the holder of an enterprise license fails to maintain with the issuing authority a current list of all employees of such licensed premises. The list shall include all massage therapists licensed under this section.
  - (8) A material variance in the actual plan and design of the premises from the plans submitted.
  - (9) Neither the charging of a criminal violation nor a criminal conviction is required in order for the council to impose an administrative penalty or suspend or revoke a license.
- (b) ***Notice and hearing.*** A revocation or suspension by the City Council shall be preceded by written notice to the licensee and a hearing. The notice shall give at least ten days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice shall be mailed by regular mail to the licensee at the most recent address listed on the license application.

1140.29. Violations and Penalties. Any person or entity violating the provisions of this section is guilty of a misdemeanor under Minnesota law, and shall be punished by a fine or by imprisonment, or both, together with the costs of prosecution. Each violation of this section shall constitute a separate offense. Conviction of a violation of this section, while not required, may be grounds for the suspension or revocation of any license issued under this section.

1140.31. Severability. If any section, subsection, sentence, clause, or phrase of this section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The City Council hereby declares that it would have adopted the section in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 2. This ordinance shall take effect and be in force immediately after its passage and publication in accordance with applicable law.

Dated the 5<sup>th</sup> day of September 2017.

---

Marvin Johnson, Mayor

ATTEST:

---

Mark Kaltsas, City Administrator

**SUMMARY ORDINANCE NO. 2017-05**

**CITY OF INDEPENDENCE  
COUNTY OF HENNEPIN**

**STATE OF MINNESOTA**

**AMENDING CHAPTER 11 OF THE INDEPENDENCE CITY CODE  
TO ADD REGULATIONS PERTAINING TO MASSAGE PARLORS**

**NOTICE IS HEREBY GIVEN** that on September 5, 2017, Ordinance No. 2017-04, was adopted by the City Council of the City of Independence, Minnesota.

**NOTICE IS FURTHER GIVEN** that, because of the lengthy nature of Ordinance No. 2017-04, the following summary of the ordinance has been prepared for publication.

**NOTICE IS FURTHER GIVEN** that the ordinance adopted by the City Council amends Chapter 11 of the Independence City Code, "Business and Trade Regulations" by establishing licensing and regulatory requirements for massage parlors. The ordinance more clearly defines the different types of massage practitioners and provides more detail relating to the licensing requirements of individuals and businesses.

A printed copy of the entire ordinance is available for inspection by any person during the City's regular office hours at the City of Independence City Hall.

**APPROVED** for publication by the City Council of the City of Independence, Minnesota on this 5<sup>th</sup> day of September 2017.

**CITY OF INDEPENDENCE**

---

Marvin D. Johnson, Mayor

ATTEST:

---

Mark Kaltsas, City Administrator