

CITY OF ST. FRANCIS
CITY COUNCIL AGENDA
Virtual Meeting via Zoom

May 03, 2021
6:00 pm

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA
 - A. City Council Minutes – April 19th, 2021
 - B. Authorization to Hire Diana Saenger as City Clerk
 - C. Approve Agreement with HGAC (consortium for fire truck purchase)
 - D. Approve Contract Fire Truck Purchase
 - E. Claims
5. MEETING OPEN TO THE PUBLIC
6. SPECIAL BUSINESS
7. PUBLIC HEARINGS
8. OLD BUSINESS
9. NEW BUSINESS
 - A. CUP Admendment-4140 St. Francis Blvd (St. Francis Auto Parts)
 - i. Resolution 2021-16 Approving Conditional Use Permit Amendment
 - B. Kennel –
 - i. Ordinance 272, Second Series (Second Reading)
 - ii. Resolution 2021-17 Authorizing Summary Publication
 - C. Peddlers –
 - i. Ordinance 273, Second Series (Second Reading)
 - ii. Resolution 2021-18 Authorizing Summary Publication
 - D. Storage –
 - i. Ordinance 274, Second Series (Second Reading)
 - ii. Resolution 2021-19 Authorizing Summary Publication
 - E. Targeted Residential Picketing –
 - i. Ordinance 275, Second Series (Second Reading)
 - F. Dog Licensing and Regulations – Ordinance 276, Second Series (First Reading)
 - G. Tobacco – Ordinance 277, Second Series (First Reading)
 - H. Saunas, Massage Parlors and Similar Adult-Oriented Services – Ordinance 278, Second Series (First Reading)
 - I. Massage Therapist License – Ordinance 279, Second Series (First Reading)
 - J. Adult Entertainment – Ordinance 280, Second Series (First Reading)
 - K. Anderson Companies Extension
10. MEETING OPEN TO THE PUBLIC
11. REPORTS
 - A. Department Reports –
 - B. Councilmember Reports -
 - C. Upcoming Events –
 - i. May 17 City Council Meeting – 6:00 pm, Zoom meeting
 - ii. May 19 Planning-7 Zoom
12. ADJOURNMENT

*This meeting will be a Virtual Meeting through Zoom, please visit our website for a link to Monday's meeting. <https://www.stfrancismn.org/citycouncil/page/city-council-meeting-283>

CITY OF ST. FRANCIS
CITY COUNCIL AGENDA
Virtual Meeting via Zoom

APRIL 19, 2021
6:00 pm

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The regular City Council meeting was called to order at 6:00 pm by Mayor Steve Feldman through virtual setting via Zoom.

2. ROLL CALL

Members Present: Mayor Steve Feldman, Councilmembers Kevin Robinson, Joe Muehlbauer, and Sarah Udvig

Also present: Assistant City Attorney Dave Schaps (Barna, Guzy & Steffen), City Engineer Craig Jochum (Hakanson Associates, Inc.), City Planner Beth Richmond (HKGi), City Administrator Joe Kohlmann, Police Chief Todd Schwieger, Fire Chief Dave Schmidt, Liquor Store Manager John Schmidt, Public Works Director Jason Windingstad, Community Development Director Kate Thunstrom, Finance Director Darcy Mulvihill, and Deputy Clerk Jenni Wida.

3. APPROVAL OF AGENDA

MOTION BY: ROBINSON SECOND: UDVIG APPROVING THE REGULAR CITY COUCIL AGENDA

Ayes: Robinson, Udvig, Feldman

Nays: None

Motion carried 3-0

Council Member Muehlbauer joined Zoom meeting @ 6:01 pm.

4. CONSENT AGENDA

MOTION BY: MUEHLBAUER SECOND: ROBINSON ADOPTING THE CONSENT AGENDA

Ayes: Udvig, Feldman Muehlbauer, Robinson,

Nays: None

Motion carried 4-0

- A. City Council Minutes – April 5th, 2021
- B. Less Lethal
- C. Claims

5. MEETING OPEN TO THE PUBLIC

City Administrator Joe Kohlmann asked if anyone wanted to speak. No one came forward.

6. SPECIAL BUSINESS

None

7. PUBLIC HEARINGS

None

8. OLD BUSINESS

None

9. NEW BUSINESS

A. Bottle Shop Expansion – Award Bid

City Administrator Joe Kohlmann gave an overview on the bottle shop sales from last year which totaled about \$2.7 million and had a 110,000-customer count which is consistent with the previous year. The City did a space needs evaluation and concluded that the bottle shop is one of the buildings that is one of the most inadequate within the city operations and is very limited on space.

Mayor Feldman had a conversation with our Architect about the items in the bid and thought there were some items that are not needed. Mayor Feldman stated that he believes that Alternate 1 (landscaping) and Alternate 2 (irrigation) are not needed at this time. There were some allowances that we could also eliminate. Feldman believes that we can get this under \$710,000.00. Feldman stated that this is a good time to do the expansion because we will get the money back on the expansion. There will be no bond pulling and no interest on bonds. Mayor Feldman believes that this is a good time to build and become established before the sale of alcohol is available in grocery stores.

Muehlbauer – Do we double down and go for the expansion at this time, the increase in cost really bother me. Materials have gone up and will they sustain until we start construction. Should we wait and see if material prices come down.

Udvig – How far do we wait until the prices go down? I have seen lumber being sold online. I was in there on Saturday and there is not much space. Our liquor store is not adequate right now. There isn't enough room to display the product. I think we need to look further into this and I believe that we need to do the expansion.

Robinson – I think that we should take advantage of the extra funds that we have at this time and move forward on this. We are fortunate enough to have the Mayor with a construction background and he can keep an eye on the project, but who will be in charge of change orders as this project unfolds. Mayor Feldman stated that he will be very involved and plans on meeting once a week with contractor and Public Works Director Jason Windingstad.

Liquor Store Manager John Schmidt commented that the liquor store has needed storage room since he started 13 years ago. He believes that this addition will be beneficial especially when we have the money available in the liquor fund and we will not exceed those funds.

MOTION BY: UDVIG SECOND: MUEHLBAUER TO ADOPT THE BID FOR THE EXPANSION TO THE BOTTLE SHOP TO WEBBER INC, IN AMOUNT OF \$627,000.00 WITH THE ADD ONS OF ALTERNATE 1 AND ALTERNATE 2 TO BE REMOVED AT THIS TIME AND TO AWARD THE PROPOSALS TO THE LOWEST QUALIFYING PROPOSAL NOT TO EXCEED THE NUMBER OF \$7,707.00 AND NOT TO EXCEED THE AMOUNT OF \$19,165.00 FROM BRITZ COOLER.

Ayes: Udvig, Muehlbauer, Feldman, Robinson

Nays: None

Motion carried 4-0

B. Street Reconditioning – Resolution 2021-13 Approving Plans and Specs

City Engineer Craig Jochum spoke about the Street Reconditioning of 241st Ave, 239th Ave, Ute Street, and Tamarack. During preparation of plans and specifications it was identified that there will need to be a number of power poles moved which will also require some tree removal. There are quite a few mature trees. There were two alternates included using MSA funds for Tamarack and alternate 2 using local funds.

Feldman asked if the right of way will cost \$42,000.00. Craig also stated that that included tree removal. West of Ute can not use MSA funds.

Feldman asked Council should we use MSA or use Local money? Feldman wants to use local money if we have the funds to do it. We have the money budgeted for this.

Robinson – I would be in favor of spending our own money and saving some of the trees.

Muehlbauer – I think that we could use our money as long as we have it budgeted.

Udvig – Agrees with everyone to use local funds.

MOTION MUELBAUER BY SECOND ROBINSON BY TO ADOPT
RESOLUTION 2021-13 STREET RECONDITIONING TO APPROVE PLANS
AND SPECS TO USE LOCAL FUNDS ON TAMARCK STREET INSTEAD OF
USING MSA FUNDING.

Ayes: UDVIG, MUEHLBAUER, ROBINSON, FELDMAN

Nays: None
Motion carries: 4-0

C. Fire Engine

Assistant Chief Joe Lawrence gave a presentation on the purchase of Fire Engine 2 Replacement. Engine 2 was identified in the 2021 capital improvement plan for replacement. In 2018 we decommissioned Fire Engine 1 because it was not up to standards. This is the vehicle that we would use the most. The current primary fire engine is currently 21 years old. To obtain a new one it would take about 12-18 months to build. We have had issues with lights and have had increasing repairs. The current fire engine has limited space and the lighting system is getting more difficult to maintain. The storage space is limited. The new truck will have more storage space. Firefighter Brent Wentworth, who is on the truck committee, spoke about some of the important specs of a new truck that will be beneficial. Most of the specs were safety related. Firefighter Chad Schroeder also spoke about the new upgrade from both vendors. There are two options for vendors that were presented for building the new fire truck. It is very common to spend over \$600K. The amounts have been increasing over the years. Pierce Manufacturing requires that we pay 100% down payment. E-One is less expensive and has a service shop located in Ham Lake, MN.

Feldman stated that he does not want to pay 100% for something that is going to take 1-2 years to build. I like the fact that E-One has a service shop in Ham Lake.

Muehlbauer – The one question I have is what is the lifetime structural warranty?

Lawrence stated that the manufacturers use different terms and the structural is the frame of the truck.

Udvig – Stated that the E1 is the best option.

Feldman stated that this is a custom build and is built for MN weather and not Florida weather.

Robinson – What brand is the current one we have? Lawrence stated that it was Toyne. Robinson also asked Assistant Fire Chief Lawrence, have you been able to see sample trucks in other departments? Have you talked to service people on this truck? Lawrence stated that they have test drove the E-One along with the mechanic and he was able to show us some of the things with the truck. Pierce's product has a great reputation and Lawrence believes that the truck committee has picked two of the best vendors to build the new fire engine.

Will this truck be able to reach multi story buildings? Lawrence stated that this is not a ladder truck. The longest ladder is 24 feet long. What are they

Finance Director Darcy Mulvihill stated that the Capital Improvement Plan does have

\$540,000 in there right now and they will have \$50,000 going in next year so there will be \$590,000 available for this truck.

Feldman – Both engines are equivalent? Chief Lawrence stated that the Pierce can be driving while spraying water. The E-One has to be parked in order to spray the water. Feldman asked if it something that we come across a lot. Lawrence stated that it is a good feature to have especially for grass fires.

MOTION BY MUEHLBAUER SECOND BY UDVIG TO SELECT VENDOR E-ONE MANUFACTURING FOR THE PURCHASE OF A NEW FIRE ENGINE UPON REVIEW OF THE CONTRACT FOR THE AMOUNT OF \$541,000.00 TO BE BUILT IN FLORIDA AND SERVICED IN HAM LAKE, MN.

Ayes: ROBINSON, FELDMAN, UDVIG, MUEHLBAUER

Nays: None

Motion carries: 4-0

D. Park System Plan

City Administrator Joe Kohlmann prepared a presentation for a Park System Plan. He spoke about park dedication fees and what they are supposed to used for? Are the park dedication fees the proper amount? Are we charging too much or too little? As of February, the park fund had a balance of \$324,530.00. The city has debited \$250,000 for the matching portion of the Rivers Edge Park being installed later this year that received a fifty percent match from the DNR. That leaves a balance of \$74,530.00.

Feldman stated that he thinks that we should move forward with the HKGI plan so that we can know how to use our park dedication fees and we can plan for those fees and make sure we are charging the correct amount. There was never any funding to go through with the previous plan that we had in place when we consulted with John Thiel Consulting.

Robinson – When is the last time we used the park dedication fee fund? Kate Thunstrom was not clear of when used these funds last time. Robinson asked when we do we have to use the grant by?

Thunstrom stated that park dedication fees have to go towards new and not towards maintenance or rehab on any existing parks. Robinson stated that he is not keen on spending \$76K on a new plan when we have old existing things that we need to take care of. I would like to dig a little deeper on this subject and would like to have a work session on this topic.

Muehlbauer – I had price tag shock at first, but I think that having a plan in place for

something that is down the road will help our growth as a city. I believe that we have a lot more growth coming and having more amenities will attract more people.

Udvig – The maintenance of our parks is very important and we need to maintain the parks as well. There are some issues that need to be addressed. It is a lot of money to spend on this plan but I don't know how else we get on track without spending the money. I think getting input from the residents is a good idea. We need to find the money to repair the parks that we have now.

Public Works Director Jason Windingstad stated that we have to have a plan to be able to move forward so that you are not just maintaining. The plan will give us something to measure and will give us goals to budget for our parks.

Feldman asked Thunstrom is this new plan is a good idea. Thunstrom stated that the first plan we had from 2019 and said that it was a good inventory of what we have and the new plan will show us all the components, of where should we put it, how much will it cost, and how much will maintenance be?

MOTION BY MUEHLBAUER SECOND FELDMAN BY TO APPROVE THE
PROPOSAL FROM HKGI TO

Ayes: MUEHLBAUER, UDVIG, FELDMAN

Nays: ROBINSON

Motion carries: 3-1

E. Proposed Zoning Map

Beth Richmond did a second reading on the proposed zoning map to update the zoning map to meet the requirements.

No comments from Council.

1) Ordinance 270, Repealing and Replacing the City Zoning Map

MOTION BY UDVIG SECOND BY MUEHLBAUER TO ADOPT ORDINANCE
270 THE SECOND SERIES REPEALING AND REPLACING THE CITY
ZONING MAP

Ayes: Udvig, Robinson, Muehlbauer, Feldman

Nays: None

Motion carries: 4-0

2) Resolution 2021-14 Authorizing Summary Publication of Ordinance 270.

MOTION BY ROBINSON SECOND BY MUEHLBAUER TO ADOPT
RESOLUTION 2021-14 AUTHORIZING SUMMARY PUBLICATION OF

ORDINANCE 270.

Ayes: Muehlbauer, Udvig, Robinson, Feldman

Nays: None

Motion carries: 4-0

F. City Sale of Property to the EDA

Thunstrom recapped on the first reading and asked if there were any questions.

No questions.

1) Ordinance 271, Second Series

MOTION BY UDVIG SECOND BY MUEHLBAUER TO ADOPT ORDINANCE 271 APPROVING THE SALE OF CITY OWNED REAL ESTATE SECOND READING

Ayes: Udvig, Feldman, Muehlbauer, Robinson

Nays: None

Motion carries: 4-0

2) Resolution 2021-15 Authorizing Summary Publication

MOTION BY MUEHLBAUER SECOND BY ROBINSON TO ADOPT RESOLUTION 2021-15 AUTHORIZING SUMMARY PUBLICATION

Ayes: Robinson, Muehlbauer, Udvig, Feldman

Nays: None

Motion carries: 4-0

G. Kennel – Ordinance 272, Second Series (First Reading)

Thunstrom stated that with the update of the zoning code the kennels ordinance fell into two sections, ordinances and licensing.

Udvig – Agrees that it needed to get cleaned up.

Thunstrom stated that when looking at the codes the codes were not clearly defined.

MOTION BY ROBINSON SECOND BY UDVIG TO ADOPT ORDINANCE 272, KENNEL, SECOND SERIES FIRST READING

Ayes: Robinson, Muehlbauer, Udvig, Feldman

Nays: None

Motion carries: 4-0

H. Peddlers – Ordinance 273, Second Series (First Reading)

In the process of updating the numbering system was overlapped and

subsequently removed this ordinance from code.

MOTION BY MUEHLBAUER SECOND BY ROBINSON TO ADOPT
ORDINANCE 273, PEDDLERS, SECOND SERIES FIRST READING

Ayes: Udvig, Robinson, Muehlbauer, Feldman

Nays: None

Motion carries: 4-0

I. Storage – Ordinance 274, Second Series (First Reading)

Remove section 14 as is it was moved to zoning.

MOTION BY ROBINSON SECOND BY UDVIG TO ADOPT ORDINANCE 274,
STORAGE SECOND SERIES FIRST READING

Ayes: Robinson, Muehlbauer, Udvig, Feldman

Nays: None

Motion carries: 4-0

J. Targeted Residential Picketing – Ordinance 275, Second Series (First Reading)

City Attorney David Schaps recommends the approval of this Residential
Picketing Ordinance.

Council all agreed that people have the right to their peace as much as someone
has the right to their freedom of speech.

Muehlbauer – asked if they had to be the judge and jury on these instances.
Schaps stated that it is specific for where these things can happen. Chief
Schwieger stated that this ordinance will help with a quicker dispersal of a group
or person.

MOTION BY ROBINSON SECOND BY UDVIG TO ADOPT ORDINANCE 275
TARGETED RESIDENTIAL PICKETING, SECOND SERIES FIRST READING

Ayes: Muehlbauer, Feldman, Robinson, Udvig

Nays: None

Motion carries: 4-0

10. MEETING OPEN TO THE PUBLIC

City Administrator Joe Kohlmann asked if anyone wanted to speak. No one
came forward.

11. REPORTS

A. Department Reports –

1) Police Quarterly

Chief Schwieger gave a report on the Police Department. They are at full staff and are continuing to take steps towards normal. There has been an increase in assaults. There has been continued training for officers. Chief Schwieger spoke about the upcoming events including the Citizens Academy, Drug Take Back, Bike Rodeo, Car Seat Clinic, National Night Out, etc. Council thanked Chief Schwieger's leadership and his staff on doing a great job.

2) Community Development Quarterly

Kate Thunstrom stated that the focus for HWY 47 is the senior housing concept plan and they are pursuing that. City was approached for a commercial user south of Mansetti's. Staff has been notified of a potential sale south of O'Reilly Auto and expects more info in the future. Fire calls are significantly less than EMS calls.

3) Fire Monthly

In March of 2020 we were staffed 24/7 due to the pandemic. We have more of an increase of EMS calls versus fire calls. This has been common across the country. The fire calls are significantly less than the EMS calls. Monday April 26th the Nowthen fire department will be operational.

4) Public Works Monthly – Public Works Direct Jason Windingstad lost internet connection and was not available to answer questions. City Administrator Joe Kohlmann stated that he would do his best to answer questions.

No comments.

B. Councilmember Reports –

Muehlbauer – Not a lot to report. Commented on Sheriff Stewarts recent comments. Looking forward to the Citizens Academy.

Udvig – Asked John Schmidt about masks required and obviously we are not enforcing. John stated that we have upset employees who are getting yelled at and he does not ask his employees to enforce masks. He stated that it is imperative that his employees are wearing masks. John stated that it is required.

Udvig asked if the walk out happened at the High School and Chief Schwieger confirmed that the walk out did happen. Supt Giese didn't think that there was much wiggle room for the SRO. The parent group was not overly anxious to take on the challenge of the SRO.

Robinson – Will be volunteering at Recycling Days this upcoming Saturday.

Feldman – We had a meeting with the Commissioner Matt Look, Joe Kohlmann, myself and Mn Dot and talked about getting a third-party consultant for HWY 47 and roundabouts. Joe Kohlmann stated that there will be a new team that we will be working with in the future. There is also an overlay planned for 2025 so we need to get these in place soon.

C. Upcoming Events –

Apr 21 Planning Commission Meeting – 7:00 pm, Zoom Meeting

Apr 24 Recycling Day @ Public Works Facility

May 3 City Council Meeting – 6:00 pm, Zoom meeting

12. ADJOURNMENT

There being no further business, Mayor Feldman adjourned the regular city council at 9:46 PM.



**City Council
AGENDA REPORT
Agenda Item #
4B**

TO: Mayor & City Council
FROM: Joe Kohlmann, City Administrator
SUBJECT: Appoint Diana Saenger as City Clerk
DATE: May 3rd, 2021

OVERVIEW

After several rounds of interviews between Department Heads, a Council Committee and workplace assessment – the overwhelming recommendation is to appoint Diana Saenger to the position of City Clerk.

She will start at Pay Grade 14 Step 6 and will be credited with 5 years of service for the purposes of vacation accrual. Diana has accepted these terms of employment and is tentatively scheduled to start working on May 17th.

Recommended Motion:

Motion to appoint Diana Saenger to the position of City Clerk.



**CITY COUNCIL
AGENDA REPORT**
Agenda Item #:
4C

TO: Mayor & City Council
FROM: Dave Schmidt, Fire Chief
SUBJECT: HGAC Purchasing Consortium Agreement
DATE: 05-03-2021

OVERVIEW:

HGAC is a large municipal purchasing consortium. This agreement allows for the purchasing of many products, but specifically fire apparatus through the consortium. The upcoming contract for the new fire engine purchase will be purchased utilizing the HGAC pricing catalog. There appears to be no additional related fees to become a member of HGAC

Action to be considered:

Motion to approve an agreement with HGAC and the City of St. Francis



**INTERLOCAL CONTRACT FOR
COOPERATIVE PURCHASING**

ILC No.:
ILC21-11207
Permanent Number assigned
by H-GAC

THIS INTERLOCAL CONTRACT ("Contract"), made and entered into pursuant to the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the "Act"), by and between the Houston-Galveston Area Council, hereinafter referred to as "H-GAC," having its principal place of business at 3555 Timmons Lane, Suite 120, Houston, Texas 77027, and **City of St. Francis**, a local government, a state agency, or a non-profit corporation created and operated to provide one or more governmental functions and services, hereinafter referred to as "End User," having its principal place of business at **23340 Cree St NW St. Francis, MN 55070**.

WITNESSETH

WHEREAS, H-GAC is a regional planning commission and political subdivision of the State of Texas operating under Chapter 391, Texas Local Government Code; and

WHEREAS, pursuant to the Act, H-GAC is authorized to contract with eligible entities to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, in reliance on such authority, H-GAC has instituted a cooperative purchasing program under which it contracts with eligible entities under the Act; and

WHEREAS, End User has represented that it is an eligible entity under the Act, that its governing body has authorized this Contract on **04/14/2021** (Date), and that it desires to contract with H-GAC on the terms set forth below;

NOW, THEREFORE, H-GAC and the End User do hereby agree as follows:

ARTICLE 1: LEGAL AUTHORITY

The End User represents and warrants to H-GAC that (1) it is eligible to contract with H-GAC under the Act because it is one of the following: a local government, as defined in the Act (a county, a municipality, a special district, or other political subdivision of the State of Texas or any other state), or a combination of two or more of those entities, a state agency (an agency of the State of Texas as defined in Section 771.002 of the Texas Government Code, or a similar agency of another state), or a non-profit corporation created and operated to provide one or more governmental functions and services, and (2) it possesses adequate legal authority to enter into this Contract.

ARTICLE 2: APPLICABLE LAWS

H-GAC and the End User agree to conduct all activities under this Contract in accordance with all applicable rules, regulations, and ordinances and laws in effect or promulgated during the term of this Contract.

ARTICLE 3: WHOLE AGREEMENT

This Contract and any attachments, as provided herein, constitute the complete contract between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 4: PERFORMANCE PERIOD

The period of this Contract shall be for the balance of the fiscal year of the End User, which began **01/01/2021** and ends **12/31/2021**. This Contract shall thereafter automatically be renewed annually for each succeeding fiscal year, provided that such renewal shall not have the effect of extending the period in which the End User may make any payment due an H-GAC contractor beyond the fiscal year in which such obligation was incurred under this Contract.

ARTICLE 5: SCOPE OF SERVICES

The End User appoints H-GAC its true and lawful purchasing agent for the purchase of certain products and services through the H-GAC Cooperative Purchasing Program. End User will access the Program through HGACBuy.com and by submission of any duly executed purchase order, in the form prescribed by H-GAC to a contractor having a valid contract with H-GAC. All purchases hereunder shall be in accordance with specifications and contract terms and pricing established by H-GAC. Ownership (title) to products purchased through H-GAC shall transfer directly from the contractor to the End User.

ARTICLE 6: PAYMENTS

H-GAC will confirm each order and issue notice to contractor to proceed. Upon delivery of goods or services purchased, and presentation of a properly documented invoice, the End User shall promptly, and in any case within thirty (30) days, pay H-GAC's contractor the full amount of the invoice. All payments for goods or services will be made from current revenues available to the paying party. In no event shall H-GAC have any financial liability to the End User for any goods or services End User procures from an H- GAC contractor.

ARTICLE 7: CHANGES AND AMENDMENTS

This Contract may be amended only by a written amendment executed by both parties, except that any alterations, additions, or deletions to the terms of this Contract which are required by changes in Federal and State law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or regulation.

H-GAC reserves the right to make changes in the scope of products and services offered through the H-GAC Cooperative Purchasing Program to be performed hereunder.

ARTICLE 8: TERMINATION PROCEDURES

H-GAC or the End User may cancel this Contract at any time upon thirty (30) days written notice by certified mail to the other party to this Contract. The obligations of the End User, including its obligation to pay H-GAC's contractor for all costs incurred under this Contract prior to such notice shall survive such cancellation, as well as any other obligation incurred under this Contract, until performed or discharged by the End User.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Contract be determined to be invalid or unenforceable, such determination shall not affect any other term of this Contract, which shall continue in full force and effect.

ARTICLE 10: FORCE MAJEURE

To the extent that either party to this Contract shall be wholly or partially prevented from the performance within the term specified of any obligation or duty placed on such party by reason of or through strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, accident, order of any court, act of God, or specific cause reasonably beyond the party's control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty shall be suspended until such disability to perform is removed; provided, however, force majeure shall not excuse an obligation solely to pay funds. Determination of force majeure shall rest solely with H-GAC.

ARTICLE 11: VENUE

Disputes between procuring party and Vendor are to be resolved in accord with the law and venue rules of the State of purchase.

THIS INSTRUMENT HAS BEEN EXECUTED BY THE PARTIES HERETO AS FOLLOWS:

City of St. Francis

Name of End User (local government, agency, or non-profit corporation)

23340 Cree St NW

Mailing Address

St. Francis, MN 55070

City, State ZIP Code

Signature of chief elected or appointed official | **Date**

Joe Kohlman, City Administrator

Typed Name & Title of Signatory

Houston-Galveston Area Council

3555 Timmons Lane, Suite 120, Houston, TX
77027

By:

Executive Director

Date:



END USER DATA

Please sign and return the Interlocal Contract, along with this completed form, to H-GAC by emailing it to cpcontractfax@h-gac.com or by faxing it to 713-993-2424. The contract may also be mailed to:

H-GAC Cooperative Purchasing Program
P.O. Box 22777, Houston, TX 77227-2777

Name of End User Agency: **City of St. Francis** County Name: **Anoka**

Mailing Address: **23340 Cree St NW St. Francis, MN 55070**

Main Telephone Number: **763-753-2630** FAX Number:

Physical Address: **23340 Cree St NW St. Francis, MN >55070**

Web Site Address: **<https://www.stfrancismn.org/>**

Official Contact: Joe Lawrence

Mailing Address: **3740 Bridge St. NW**
St. Francis, MN 55070

Title: **Assistant Fire Chief**

Ph No.: **612-386-7795**

FX No.:

E-Mail Address: **jlawrence@stfrancismn.org**

Authorized Official: Joe Kohlman

Mailing Address: **23340 Cree St NW**
St. Francis, MN 55070

Title: **City Administrator**

Ph No.: **763-753-2630**

FX No.:

E-Mail Address: **JKohlmann@stfrancismn.org**

Authorized Official: Darcy Mulvihill

Mailing Address: **23340 Cree St NW**
St. Francis, MN 55070

Title: **Finance Director**

Ph No.: **763-235-2306**

FX No.:

E-Mail Address: **DMulvihill@stfrancismn.org**



ILC No.:
ILC21-11207
Permanent Number assigned
by H-GAC

NON-PROFIT CERTIFICATION

City of St. Francis (End User) is a non-profit corporation with an Internal Revenue Service determination in compliance with the Internal Revenue Code Section . Copies of IRS determination letter and By-Laws/Charter/Articles of Incorporation are enclosed.

End User is a non-profit corporation created and operated to provide one or more governmental functions and services. “Governmental functions and services” means all or part of a function or service in any of the following areas:

Functions/Services: **Police Protection and Detention Services, Streets, Roads and Drainage, Parks and Recreation, Planning, Fire Protection, Engineering, Public Funds Investment**

Administrative Functions: **Tax Assessment and Collection, Personnel Services, Purchasing, Records Management, Data Processing, Equipment Repair**

End User agrees to notify the Houston-Galveston Area Council immediately if there are any changes to the services or functions end user provides.

End User is made aware that no for-profit organizations may participate in this agreement and agrees to abide by this restriction.

By signing this document, End User certifies that the information provided herein is true and accurate.

Signature of End User

Joe Kohlman, City Administrator

Printed Name and Title

Date

COMPLETING AND EXECUTING THE ILC PROCESS

Step 1 (complete)

Thank you for completing this step. A PDF copy of the ILC document will be delivered to the email address entered.

Step 2

Secure a signature by the individual identified as the Authorized Official to contractually bind your entity.

Step 3

Scan and email a copy of the contract to H-GAC at cpcontractfax@h-gac.com, or fax it to 713-993-2424.

The contract may also be mailed to:

H-GAC Cooperative Purchasing Program

PO Box 22777

Houston, TX 77227-2777

If you require an original signed contract, please print, sign, and mail two (2) sets of the ILC documents.

Step 4

H-GAC will execute the contract and return a copy to you electronically.



**CITY COUNCIL
AGENDA REPORT**
Agenda Item #:
4D

TO: Mayor & City Council
FROM: Dave Schmidt, Fire Chief
SUBJECT: Contract to Purchase a New Fire Engine
DATE: 05-03-2021

OVERVIEW:

On April 19th, 2021 the City Council approved the fire department to purchase a new fire engine through E-One. Enclosed is the contract for the purchase, for a total of \$534,552.00. The purchasing committee has reviewed the contract and specifications for the new engine and are in agreement that all of the requested specifications are included in the plan.

Action to be considered:

Motion to approve the contract for a new fire engine in the amount of \$534,552.00 utilizing funds from the Capital Fund.



FIRE APPARATUS PURCHASE CONTRACT AGREEMENT

This Agreement ("Agreement") is made this _____ day of _____, 2021, by and between Fire Safety USA, Inc., 3253 19th Street NW, Rochester, MN, 55901, (hereinafter "Company") and the City of St. Francis (hereinafter "Buyer").

1.) Purchase: The Company agrees to sell, and the Buyer agrees to purchase, the fire apparatus and equipment described in the Company's Proposal and the Specifications attached hereto and hereby incorporated by reference (the "Apparatus"), all in accordance with the terms and conditions of this Agreement. Changes to the Specifications attached hereto will only be executed by the Company if documented by a Change Order signed by both parties. In the event of any conflict between the Company's Proposal and the Buyer's Specifications, the Company's proposal shall prevail.

2.) Purchase Price:

The Buyer agrees to pay a purchase price of Five Hundred Thirty-Four Thousand Five Hundred Fifty-Two Dollars, [\$534,552.00].

Unless otherwise specified, this Purchase Price is exclusive of all Federal, State or local taxes of any nature. Any such taxes are the sole responsibility of the Buyer unless specifically added to the Purchase Price, at which time they will be paid by the Company; provided, however, if the Buyer claims the Order is exempt from any tax, Buyer agrees to furnish the applicable exemption certificate to the Company and to hold the Company harmless from any damage which may result from the Company ultimately having any such tax assessed against it.

PAYMENTS

Buyer agrees that the terms of payment shall include cash upon delivery and acceptance of new apparatus.

Pre-Pay Option; Buyer has the option of pre-paying any amount they choose and Buyer will earn 3% simple interest from the time deposited until the completion date at E-One.

CUSTOMER SHALL MAKE ALL PAYMENTS, INCLUDING DEPOSITS AND PARTIAL PAYMENTS, TO THE COMPANY ONLY. ALL CHECKS SHALL BE MADE PAYABLE TO FIRE SAFETY USA, INC. NO OTHER PAYEE SHALL BE NAMED.

3.) Pre-Build: If included in the specifications, a pre-build conference will be conducted to ascertain and confirm customer requirements with respect to the Apparatus ordered by Buyer. Both parties agree that the pre-build conference will be conducted no later than thirty (30) business days from execution of this Agreement.

4.) Delivery: The Apparatus shall be delivered in; Estimated delivery is 375 days after contract signing.

It is agreed that such delivery is subject to delays caused by war, acts of god, hurricane, labor shortages or strikes, inability to obtain materials, and other causes reasonably beyond the control of the Company and that the Company will not be liable for, and this Agreement may not be terminated on account of, such delays. Buyer will be notified no less than fourteen (14) business days in advance of the delivery date.



5.) Final Inspection - Customer Factory Inspection: A final inspection shall be performed at the Company's dealership location prior to delivery to the customer. In the event that the buyer fails to make a final inspection by the date agreed upon by both Company and Buyer, Company reserves the right to arrange for delivery of the Apparatus to the Buyer, and to charge the Customer the full invoice price for the Apparatus, which shall be paid for in the manner specified in paragraph 2.

6.) Buyer's Cancellation for Convenience. If Buyer tenders any cancellation hereunder, Buyer shall nevertheless accept delivery of all products which are completed at the time of cancellation. Those products which constitute work-in-process inventory at the time of cancellation shall be paid for by Buyer at a price equal to the completed percentage of the product multiplied by the price specified in Paragraph 2. Buyer also shall pay promptly to Company the costs of settling and paying claims arising out of the termination of work under Company's subcontracts or vendors, plus an additional 15% to defray Company's accounting, legal, and clerical costs arising out of the cancellation.

7.) Title: The Company and Buyer agree that the Manufacturer's Statement of Origin shall remain with the Company until the Company has been paid in full. Provided that the Company has been paid in full, the Manufacturer's Statement of Origin shall remain with the Company until the Apparatus is in the physical custody of the Buyer, or Statement of Origin will be utilized to apply for a Motor Vehicle Title, depending on applicable law(s) in destination state. Statement of Origin or Title Application documentation will be sent to customer within ten business days after delivery of the vehicle. Upon pick up by Buyer, responsibility for title application, ownership and risk of loss shall pass from Company to Buyer.

8.) Warranty: The Company warrants each new Apparatus manufactured against defects in material and workmanship for a period of two years from the in-service date per the Warranty Registration Card. Warranties beyond two years may be applicable to certain components of the Apparatus as described in the Statements of Warranty previously provided to the Buyer. This warranty is in favor of the original user/purchaser, in accordance with the Company's preprinted Statements of Warranty which are either attached to the Agreement or have otherwise been delivered to Buyer. Buyer hereby acknowledges receipt of the Company's preprinted Statements of Warranty.

With respect to any Apparatus not manufactured by the Company, such items shall not be warranted by the Company but shall be subject to the warranty provided by the manufacturer.

These warranties are in lieu of all other warranties, whether express or implied, and THE COMPANY EXPRESSLY DISCLAIMS ALL OTHER SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9.) Notices: The parties to this Agreement designate City of St. Francis as representative of the Buyer and Fire Safety USA, Inc. as representative of the Company for purposes of all communications regarding this Agreement.

10.) Waiver of Jury Trial: The parties to this Agreement agree that any dispute arising hereunder, if brought before a court having proper jurisdiction, shall be adjudicated in a bench trial and the parties expressly waive any right to have such matter(s) tried before a jury.



11.) Entire Agreement: This Agreement, including its attachments and exhibits, constitutes the entire understanding between the parties relating to the subject matter contained herein and supersedes all prior discussions and Agreements. No agent or representative of the Company has authority to make any representations, statements, warranties or Agreements not herein expressed and all modifications or amendments of this Agreement, including its attachments and exhibits, must be in writing signed by an authorized representative of each of the parties hereto.

12.) Acceptance by Company: This Agreement shall not constitute a valid and binding obligation of the Company until accepted in writing by an officer of the Company at its offices in Rochester, Minnesota. When requested by the Company, the Buyer shall furnish a satisfactory written opinion of the Buyer's attorney that the Buyer has the power to make the Agreement, that the individual signing is authorized to sign on behalf of the Buyer, and that this Agreement is a valid, legal and enforceable obligation of the Buyer.

IN WITNESS WHEREOF, The Company and the Buyer have caused this Agreement to be executed by their duly authorized representatives as of the date set forth by each.

BUYER:

CITY OF ST. FRANCIS

By:_____

Title:_____

Date:_____

COMPANY:

FIRE SAFETY USA, INC.

By:_____
Ryan Clarey, Fire Safety USA, Inc.

Title:_____ Dealer Principal _____.

Date:_____



**CITY COUNCIL
AGENDA REPORT**

Agenda Item #:

4E

TO: Joe Kohlmann, City Administrator
FROM: Darcy Mulvihill, Finance Director
SUBJECT: Bill List to be considered by Council
DATE: 04/28/2021

OVERVIEW:

Attached are the bills received since the last council meeting. Total checks to be written are \$109,195.41 plus any additional bills that are handed out at council meeting.

Other Payments to be approved:

Debt service payments - None
Direct Transfers from Previous Month - None
Credit Card Payment- None
Manual Checks- \$129.29

ACTION TO BE CONSIDERED:

Approved under consent agenda to allow Finance Director to draft checks or ACH withdrawals for the attached bill list. Please note additional bills may be handed out at the council meeting.

BUDGET IMPLICATION:

City bills

Attachments:

- 05-03-2021 Packet List
- 05-03-2021 Manual Checks

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***Claim Register©**

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Claim Type

Claim#	10212	AIRGAS NORTH CENTRAL				
Cash Payment	E 101-43100-217	Other Operating Supplies	RENTAL			\$15.51
Invoice	2017404					
Cash Payment	E 101-43210-217	Other Operating Supplies	RENTAL			\$15.51
Invoice	2017404					
Cash Payment	E 101-45200-217	Other Operating Supplies	RENTAL			\$15.51
Invoice	2017404					
Cash Payment	E 601-49440-217	Other Operating Supplies	RENTAL			\$15.51
Invoice	2017404					
Cash Payment	E 602-49490-217	Other Operating Supplies	RENTAL			\$15.53
Invoice	2017404					
Cash Payment	E 101-43100-217	Other Operating Supplies	RENTAL			\$8.65
Invoice	9112173494					
Cash Payment	E 101-43210-217	Other Operating Supplies	RENTAL			\$8.65
Invoice	9112173494					
Cash Payment	E 101-45200-217	Other Operating Supplies	RENTAL			\$8.65
Invoice	9112173494					
Cash Payment	E 601-49440-217	Other Operating Supplies	RENTAL			\$8.65
Invoice	9112173494					
Cash Payment	E 602-49490-217	Other Operating Supplies	RENTAL			\$8.66
Invoice	9112173494					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$120.83

Claim Type

Claim#	10213	ALWAYS BRIGHT LIGHTS LTD				
Cash Payment	E 101-45200-311	Contract	INSTALLED SUMMER BANNERS			\$350.00
Invoice	893					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$350.00

Claim Type

Claim#	10215	ANOKA COUNTY ATTORNEYS OFF				
Cash Payment	E 208-42110-441	Miscellaneous	FORFEITURE - WILLIAM KYLE SALO			\$442.00
Invoice	.0421					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$442.00

Claim Type

Claim#	10214	ANOKA COUNTY TREASURY DEPT				
Cash Payment	E 101-42110-311	Contract	1ST QTR 2021 STATE ACCESS			\$180.00
Invoice	AR017770					
Cash Payment	E 101-42110-321	Telephone	BROADBAND			\$37.51
Invoice	B210419P					
Cash Payment	E 101-42210-321	Telephone	BROADBAND			\$37.51
Invoice	B210419P					
Cash Payment	E 101-43100-321	Telephone	BROADBAND			\$37.51
Invoice	B210419P					
Cash Payment	E 101-45200-321	Telephone	BROADBAND			\$37.51
Invoice	B210419P					
Cash Payment	E 601-49440-321	Telephone	BROADBAND			\$37.51
Invoice	B210419P					
Cash Payment	E 602-49490-321	Telephone	BROADBAND			\$37.45
Invoice	B210419P					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$405.00

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Claim Type

Claim#	10216	BERNICK COMPANIES, THE				
Cash Payment	E 609-49751-252	Beer For Resale	BEER			\$930.65
	Invoice 202957					
Cash Payment	E 609-49751-255	N/A Products	N/A			\$21.00
	Invoice 202957					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$951.65

Claim Type

Claim#	10217	BREAKTHRU BEVERAGE				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$45.55
	Invoice 339205711					
Cash Payment	E 609-49751-251	Liquor For Resale	LIQUOR			\$4,831.29
	Invoice 339205711					
Cash Payment	E 609-49751-253	Wine For Resale	WINE			\$184.00
	Invoice 339205711					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$5,060.84

Claim Type

Claim#	10218	CAPITOL BEVERAGE SALES, L.P				
Cash Payment	E 609-49751-252	Beer For Resale	BEER			\$443.00
	Invoice 2536877					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$443.00

Claim Type

Claim#	10272	CONNEXUS ENERGY				
Cash Payment	E 101-41940-381	Electric Utilities	3772 BRIDGE			\$9.24
	Invoice 454468-172173					
Cash Payment	E 101-41940-381	Electric Utilities	22951 AMBASSADOR BLVD			\$14.45
	Invoice 454468-172193					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$23.69

Claim Type

Claim#	10219	CRYSTAL SPRINGS ICE				
Cash Payment	E 609-49751-254	Miscellaneous Merchandis	MISC			\$77.76
	Invoice 1001883					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$77.76

Claim Type

Claim#	10222	DAHLHEIMER DIST. CO. INC.				
Cash Payment	E 609-49751-251	Liquor For Resale	LIQUOR			-\$17.00
	Invoice 1384791					
Cash Payment	E 609-49751-251	Liquor For Resale	LIQUOR			-\$243.30
	Invoice 1384785					
Cash Payment	E 609-49751-252	Beer For Resale	BEER			\$21,131.48
	Invoice 1384758					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$20,871.18

Claim Type

Claim#	10223	DEHN OIL				
Cash Payment	E 101-43100-212	Motor Fuels	OIL			\$2,164.00
	Invoice 79719					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$2,164.00

Claim Type

Claim#	10224	E.H. RENNER				
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Cash Payment	E 602-49490-434 Permit Fees	SEALING				\$1,420.00
	Invoice 6283					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$1,420.00
Claim Type						
Claim#	10283	ECM PUBLISHERS, INC.				
Cash Payment	E 101-41400-351 Legal Notices Publishing	ORDINANCE #270				\$69.88
	Invoice 831277					
Cash Payment	E 405-43100-806 2021 Street Improvements	2021 STREETS				\$198.88
	Invoice 831278					
Cash Payment	E 101-41400-351 Legal Notices Publishing	RESOLUTION #2021-5				\$69.88
	Invoice 831276					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$338.64
Claim Type						
Claim#	10254	EMERGENCY AUTOMOTIVE TECH.				
Cash Payment	E 101-42110-221 Vehicle Repair & Maintena	REPAIRS				\$140.00
	Invoice SVC28962					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$140.00
Claim Type						
Claim#	10225	FEDERATED COOP				
Cash Payment	E 101-45200-419 Turf/Fertilizer/Weed Contro	SEED				\$1,664.19
	Invoice 30314597					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$1,664.19
Claim Type						
Claim#	10281	FERGUSON WATERWORKS, INC				
Cash Payment	E 601-49440-229 Project Repair & Maintena	SUPPLIES				\$14.30
	Invoice WR005227					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$14.30
Claim Type						
Claim#	10255	FINANCE AND COMMERCE				
Cash Payment	E 602-49490-352 General Publishing	CONSTRUCTION BIDS				\$165.70
	Invoice 745038741					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$165.70
Claim Type						
Claim#	10256	GRAINGER, INC.				
Cash Payment	G 601-16500 Construction in Progress	CHEMICAL ROOM REHAB				\$1,118.68
	Invoice 9871354719					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$1,118.68
Claim Type						
Claim#	10227	GRANITE CITY JOBBING CO.				
Cash Payment	E 609-49751-206 Freight and Fuel Charges	FREIGHT				\$4.25
	Invoice 227602					
Cash Payment	E 609-49751-256 Tobacco Products For Res	TOBACCO				-\$18.34
	Invoice 225841					
Cash Payment	E 609-49751-254 Miscellaneous Merchandis	MISC				\$58.68
	Invoice 227602					
Cash Payment	E 609-49751-256 Tobacco Products For Res	TOBACCO				\$2,694.56
	Invoice 227602					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$2,739.15

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Claim TypeClaim# 10280 *HAWKINS, INC.*Cash Payment E 602-49490-216 Chemicals and Chem Prod CHEMICALS \$5,420.15
Invoice 4918712Transaction Date 4/28/2021 Due 5/28/2021 CASH 10100 **Total** \$5,420.15**Claim Type**Claim# 10230 *JOHNSON BROS WHLSE LIQUOR*Cash Payment E 609-49751-252 Beer For Resale BEER \$25.60
Invoice 1786200Cash Payment E 609-49751-206 Freight and Fuel Charges FREIGHT \$67.51
Invoice 1786198Cash Payment E 609-49751-206 Freight and Fuel Charges FREIGHT \$18.84
Invoice 1786199Cash Payment E 609-49751-251 Liquor For Resale LIQUOR \$3,864.20
Invoice 1786198Cash Payment E 609-49751-251 Liquor For Resale WINE \$733.65
Invoice 1786199Transaction Date 4/26/2021 Due 5/26/2021 CASH 10100 **Total** \$4,709.80**Claim Type**Claim# 10257 *LAW ENFORCEMENT LABOR SVC*Cash Payment G 101-21707 Union Dues UNION DUES - MAY \$571.50
Invoice .0521Cash Payment G 101-21707 Union Dues SARGEANT UNION DUES - MAY \$63.50
InvoiceTransaction Date 4/28/2021 Due 5/28/2021 CASH 10100 **Total** \$635.00**Claim Type**Claim# 10279 *LEAGUE OF MN CITIES*Cash Payment E 603-49490-418 Storm Water Management STORMWATER COALITION \$640.00
Invoice 340559Transaction Date 4/28/2021 Due 5/28/2021 CASH 10100 **Total** \$640.00**Claim Type**Claim# 10278 *LITTLE FALLS MACHINE INC.*Cash Payment E 402-43100-550 Vehicles SNOW WING \$11,235.00
Invoice 361275Transaction Date 4/28/2021 Due 5/28/2021 CASH 10100 **Total** \$11,235.00**Claim Type**Claim# 10234 *MCDONALD DIST CO.*Cash Payment E 609-49751-252 Beer For Resale BEER \$14,755.30
Invoice 559365Cash Payment E 609-49751-252 Beer For Resale BEER -\$6.50
Invoice 541256Cash Payment E 609-49751-252 Beer For Resale BEER \$805.76
Invoice .0421Cash Payment E 609-49751-252 Beer For Resale BEER \$6,565.55
Invoice 577220Cash Payment E 609-49751-252 Beer For Resale BEER -\$270.61
Invoice 559400Cash Payment E 609-49751-252 Beer For Resale BEER -\$9.50
Invoice 2400529Transaction Date 4/26/2021 Due 5/26/2021 CASH 10100 **Total** \$21,840.00

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Claim Type

Claim#	10277	METRO SALES, INC.				
Cash Payment	E 101-42110-311	Contract	COPIES			\$159.61
	Invoice	INV1801161				
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$159.61

Claim Type

Claim#	10239	MN NCPERS LIFE INSURANCE				
Cash Payment	G 101-21713	MN Life	INSURANCE			\$96.00
	Invoice	733400052021				
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$96.00

Claim Type

Claim#	10231	M-R SIGN COMPANY, INC.				
Cash Payment	E 101-43100-226	Sign Repair Materials	SIGNS			\$2,215.79
	Invoice	211716				
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$2,215.79

Claim Type

Claim#	10241	NORTH METRO TREE SERVICE IN				
Cash Payment	E 101-45200-311	Contract	TREE REMOVAL			\$1,712.50
	Invoice	0005				
Cash Payment	E 101-43210-439	Recycling Days	DEBRIS - BRUSH DAYS			\$2,150.00
	Invoice	0004				
Cash Payment	E 101-43100-311	Contract	TREE REMOVAL			\$1,712.50
	Invoice	0005				
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$5,575.00

Claim Type

Claim#	10276	OPUS 21				
Cash Payment	E 601-49440-382	Utility Billing	MARCH 2021			\$1,429.23
	Invoice	210322				
Cash Payment	E 602-49490-382	Utility Billing	MARCH 2021			\$1,429.23
	Invoice	210322				
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$2,858.46

Claim Type

Claim#	10243	PHILLIPS WINE & SPIRITS CO.				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$17.27
	Invoice	6193069				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$81.64
	Invoice	6193068				
Cash Payment	E 609-49751-253	Wine For Resale	WINE			\$409.25
	Invoice	6193069				
Cash Payment	E 609-49751-251	Liquor For Resale	LIQUOR			\$6,397.65
	Invoice	6193068				
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$6,905.81

Claim Type

Claim#	10246	SOUTHERN GLAZERS OF MN				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$6.40
	Invoice	2071455				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$7.79
	Invoice	2071454				
Cash Payment	E 609-49751-206	Freight and Fuel Charges	FREIGHT			\$0.64
	Invoice	2071453				

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Cash Payment	E 609-49751-251 Liquor For Resale	LIQUOR				\$84.51
	Invoice 2071453					
Cash Payment	E 609-49751-253 Wine For Resale	WINE				\$210.00
	Invoice 2071455					
Cash Payment	E 609-49751-251 Liquor For Resale	LIQUOR				\$1,307.50
	Invoice 2071454					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$1,616.84
Claim Type						
Claim#	10247	STATE OF MN, DEPT OF FINANCE				
Cash Payment	E 208-42110-441 Miscellaneous	FORFEITURE - WILLIAM KYLE SALO				\$221.00
	Invoice .0421					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$221.00
Claim Type						
Claim#	10260	STERLING TROPHY				
Cash Payment	E 101-42210-237 Small Equipment	PLASTIC BOARD ENGRAVING				\$115.95
	Invoice 27144					
Transaction Date	4/28/2021	Due 5/28/2021	CASH	10100	Total	\$115.95
Claim Type						
Claim#	10248	SUN LIFE FINANCIAL				
Cash Payment	E 101-41400-130 Employer Paid Insurance	MAY INSURANCE				\$291.19
	Invoice .0421					
Cash Payment	E 101-41500-130 Employer Paid Insurance	MAY INSURANCE				\$150.70
	Invoice .0421					
Cash Payment	E 101-41910-130 Employer Paid Insurance	MAY INSURANCE				\$81.67
	Invoice .0421					
Cash Payment	E 101-42110-130 Employer Paid Insurance	MAY INSURANCE				\$989.10
	Invoice .0421					
Cash Payment	E 101-42210-130 Employer Paid Insurance	MAY INSURANCE				\$78.28
	Invoice .0421					
Cash Payment	E 101-42400-130 Employer Paid Insurance	MAY INSURANCE				\$76.33
	Invoice .0421					
Cash Payment	E 101-43100-130 Employer Paid Insurance	MAY INSURANCE				\$185.11
	Invoice .0421					
Cash Payment	E 101-43210-130 Employer Paid Insurance	MAY INSURANCE				\$41.13
	Invoice .0421					
Cash Payment	E 101-45200-130 Employer Paid Insurance	MAY INSURANCE				\$185.11
	Invoice .0421					
Cash Payment	E 601-49440-130 Employer Paid Insurance	MAY INSURANCE				\$135.69
	Invoice .0421					
Cash Payment	E 602-49490-130 Employer Paid Insurance	MAY INSURANCE				\$135.69
	Invoice .0421					
Cash Payment	E 609-49750-130 Employer Paid Insurance	MAY INSURANCE				\$142.95
	Invoice .0421					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$2,492.95
Claim Type						
Claim#	10249	SUPERIOR MARKETING CONCEPT				
Cash Payment	E 609-49750-340 Advertising	ADVERTISING				\$250.00
	Invoice .0421					
Transaction Date	4/26/2021	Due 5/26/2021	CASH	10100	Total	\$250.00

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Claim Type

Claim# 10250 TOTAL CONTROL SYSTEMS, INC.

Cash Payment E 602-49490-229 Project Repair & Maintena SERVICE CALL \$273.80
Invoice 9732Transaction Date 4/26/2021 Due 5/26/2021 CASH 10100 **Total** \$273.80**Claim Type**

Claim# 10251 VESSCO, INC.

Cash Payment G 601-16500 Construction in Progress CHEMICAL ROOM \$1,487.39
Invoice 83074Transaction Date 4/26/2021 Due 5/26/2021 CASH 10100 **Total** \$1,487.39**Claim Type**

Claim# 10275 WSB & ASSOCIATES, INC

Cash Payment E 601-49440-303 Engineering Fees RISK ASSESSMENT \$1,936.25
Invoice R-017848-000-1Transaction Date 4/28/2021 Due 5/28/2021 CASH 10100 **Total** \$1,936.25

Pre-Written Checks \$0.00

Checks to be Generated by the Compute \$109,195.41

Total \$109,195.41

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Payments

Current Period: April 2021

Payments Batch P-MAN 04-21 \$129.29

Refer	10271 UDVIG, SARAH	Ck# 078993 4/28/2021	
Cash Payment	G 101-10100 Cash	DIRECT DEPOSIT RETURNED	\$129.29
Invoice .0421	4/28/2021		
Transaction Date	4/28/2021	Due 5/28/2021 CASH	10100
		Total	\$129.29

Fund Summary

	10100 CASH
101 GENERAL FUND	\$129.29
	\$129.29

Pre-Written Checks	\$129.29
Checks to be Generated by the Computer	\$0.00
Total	\$129.29



CITY COUNCIL REPORT

TO: City of St. Francis City Council
FROM: Beth Richmond, Consulting Planner
DATE: April 28, 2021
SUBJECT: CUP Amendment
APPLICANT: St. Francis Auto Parts (Rick Sonsteby)
LOCATION: 4140 St. Francis Blvd NW (PID 06-33-24-13-0006)
MEETING DATE: May 3, 2021
COMP PLAN: Business Park/Light Industrial
ZONING: I-1 General Industrial

OVERVIEW

St. Francis Auto Parts is an existing business located south of Hwy 47 on the southern end of the City, adjacent to the City's Public Works Building. This property has an existing CUP which allows the site to be used as a salvage yard. It was originally granted in 1987, and has been amended several times over the years.

The site is currently used as a salvage yard. The building on-site houses individual vehicle sales offices. The sales offices are not an approved use in the existing CUP, and so the use is non-compliant. The applicant is requesting to amend the existing CUP to change the permitted uses on the site to bring the vehicle sales use into compliance and to add other uses on the site. The applicant is requesting the following uses: 15 offices for used vehicle sales, salvage yard, auto repair (major), and outdoor storage.

PLANNING COMMISSION

The Planning Commission reviewed the CUP amendment request at their April 21, 2021 meeting. No members of the public provided comment either for or against the request. Commissioners discussed the existing business and talked with the applicant about the timing of the proposed improvements and changes in use. After discussion, the Planning Commission recommended unanimously for approval of the CUP amendment request with conditions.

ACTION

Given Planning Commission and Staff recommendation of approval for the request, a draft resolution has been prepared for your consideration.

Suggested Motion: "Move to adopt Resolution 2021-16 approving a conditional use permit amendment to allow salvage yard, used vehicle sales, major auto repair, and outdoor storage

City Council Report – St. Francis Auto Parts CUP Amendment – May 3, 2021

uses on the property located at 4140 St. Francis Blvd NW subject to the conditions and findings of fact as identified by Staff.”

ATTACHMENTS

- Draft Resolution
- Draft Conditional Use Permit
- April 21, 2021 Planning Commission Packet

**CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY**

RESOLUTION 2021-16

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO
ALLOW SALVAGE YARD, USED VEHICLE SALES, OUTDOOR STORAGE, AND
MAJOR AUTO REPAIR AT 4140 ST. FRANCIS BLVD NW**

WHEREAS, the applicant, Rick Sonstebly, has requested an amendment to the existing conditional use permit for the property to allow a salvage yard, multi-tenant used vehicle sales, outdoor storage, and major auto repair; and

WHEREAS, the property is legally described in Exhibit A; and

WHEREAS, the property is zoned I-1 General Industrial; and

WHEREAS, an existing CUP for the property allowing the salvage yard use has been in effect since 1987; and

WHEREAS, scrap or salvage yard, vehicle sales, leasing, and rental, and open and outdoor storage are all conditional uses within the I-1 General Industrial District; and

WHEREAS, major auto repair is permitted with standards in the I-1 General Industrial District; and

WHEREAS, on April 21, 2021, after published and mailed notice in accordance with Minnesota Statutes and the City Code, the Planning Commission held a public hearing, at which time all persons desiring to be heard concerning this application were given the opportunity to speak thereon; and

WHEREAS, on April 21, 2021, the Planning Commission unanimously recommended approval of the requested Conditional Use Permit amendment; and

WHEREAS, the City Council of the City of St. Francis, on May 3, 2021, considered the requested Conditional Use Permit amendment and how it might affect public health, safety, or welfare and found that with the noted conditions the project will not negatively impact the public health, safety, or welfare.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of St. Francis hereby approves the requested Conditional Use Permit for salvage yard, used vehicle sales, outdoor storage, and major auto repair uses at 4140 St. Francis Blvd NW based on the following findings of fact:

1. The proposed CUP amendment is consistent with the City's 2040 Comprehensive Plan and the proposed uses are compatible with present and future land uses of the area.
2. With conditions, the proposed uses conform with all performance standards contained in the City's Zoning Ordinance.
3. The proposed use is served by an individual well and septic system and will not overburden the City's service capacity.
4. Traffic generation by the proposed use is within capabilities of streets serving the property.

BE IT FURTHER RESOLVED that approval of the Conditional Use Permit amendment for a salvage yard, used vehicle sales, outdoor storage, and major auto repair uses at 4140 St. Francis Blvd NW shall be subject to the following conditions:

1. The 2021 City Zoning Map shall be effective prior to recording of this document.
2. The applicant shall provide legal proof of ownership of the property.
3. The applicant shall provide the legal description for the property.
4. Applicant shall provide a to-scale site plan with dimensions identifying each area of the site and its use.
 - a. No approved use shall be expanded past what is shown on the site plan without an amendment to the CUP. Any changes to permitted or permitted-with-standards uses on the site will require administrative review and approve to ensure those changes will not negatively impact the conditionally permitted uses on the site.
 - b. The northern parking lot shall be modified on the plans. The 10 parallel parking spaces shall be removed, reducing the total number of stalls to 91. Each 90-degree parking stall shall be at least 19 feet long.
 - c. Applicant shall provide a to-scale site plan with dimensions and calculations of existing and proposed hardcover on the site to ensure that total hardcover on the site shall not be increased over existing or shall not exceed 80% as determined by Section 10-44-04 of the City Zoning Code.
5. An eight (8) foot wooden fence shall be maintained across the North, East and West sides of the subject property.
6. All parking spaces provided for the proposed uses shall be on improved surfaces within the property. Vehicles within the salvage yard portion of the site do not need to be parked on improved surfaces unless required by other state or federal permitting.
7. All parking lots on the site shall be striped according to the requirements set forth in Code Section 10-72-08 Design and Maintenance of Off-Street Parking. The southern parking lot shall meet all applicable requirements of Code Section 10-72-04 Performance Standards and Section 10-72-08.
8. Plans for the driveway leading to the outdoor storage use shall be provided to Staff and reviewed administratively for compliance prior to construction.
9. Applicant shall comply with all comments from MnDOT regarding access onto Hwy 47.
10. At the time the use of the land is changed or the parcel is subdivided a new driveway permit must be obtained from the Minnesota Department of Transportation. Proof of application and approval from MnDOT shall be submitted to the Community Development Department.

11. Applicant shall provide information about the pole height, lighting fixture type, and lightbulb type to Staff to demonstrating that all lighting on site meets the requirements of City Code Section 10-71-04 Exterior Lighting.
12. All vehicle fluid draining shall be conducted within a building.
13. All petroleum products, anti-freeze, and hazardous materials shall be disposed of in accordance with local and state regulations.
14. Applicant shall provide a sewer certification from a qualified entity demonstrating that the existing septic system is capable of handling the increase in intensity on the site. If changes or additional capacity is needed, the applicant will be required to connect to the City's system.
15. Applicant shall provide a stormwater management plan/strategy to ensure runoff is appropriately managed to protect against pollutant discharge.
16. Salvage Yard
 - a. Travelways through the storage yard shall be maintained to allow for fire and emergency access.
 - b. The fencing requirement for the salvage operation shall be as follows:
 - i. The required fencing shall be of a uniform elevation and will provide for 100% screening of the salvage yard contents. For the purpose of this requirement, the uniform elevation shall be set at 8 feet above the floor elevation of the existing structure. The actual height of the fence may vary depending upon topographic conditions. A trim board shall be provided along the top of the fencing material. Tiered fencing may be permitted. In no case shall the elevation of the fence be less than 6 feet above the centerline of Highway 47.
 - ii. All gates are to be solid so the contents are not visible.
 - iii. The fence is to be kept in good repair and in neat condition at all times.
 - iv. Chain link fencing shall provide slats for screening or other approved screening materials.
 - c. The fence shall not be used for bill posting or other advertising purposes, except that one sign (which meets the requirements of the St. Francis City Code) advertising the business of the applicant will be allowed.
 - d. The contents of the salvage yard shall not exceed the height of the fence.
 - e. There is to be no storage outside of the fence area or visible to the public.
 - f. Demolishing or wrecking of cars shall be permitted between the hours of 7a.m. to 8 p.m. Monday through Saturday.
 - g. No combustible material of any kind not necessary or beneficial to the business shall be kept on the premises nor shall the premises be allowed to become a fire hazard.
 - h. The salvage yard shall not be allowed to become a nuisance or operated in such a manner to become injurious to the health, safety, or welfare of the community or any resident close by. No storage shall be permitted within the Wellhead Protection Area on-site or within the on-site sewage treatment area located along the East property line.
 - i. The applicant shall at all times retain on file and shall permit inspection by any member of the St. Francis City Council or its authorized representative the following:

- i. A copy of the Bill of Sale or Title Card, with motor vehicle serial number contained thereon, for each motor vehicle purchased within the previous thirty-six (36) months.
 - ii. The name, address, and telephone number of each person who has sold a motor vehicle to the business within the previous thirty-six (36) months and attached thereto or filed therewith shall be the license number of the motor vehicle to be junked and in addition to the foregoing, information shall be filed containing the description, license number and serial number that was sold to the business.
- 17. Vehicle Sales, Leasing, and Rental
 - a. No more than 15 used vehicle sales offices shall be allowed on site.
 - b. Parking spaces for vehicle sales tenants, customers, and merchandise shall be located in the northern parking lot. No fewer than five (5) parking spaces per tenant shall be provided which shall include at least 1 space for the tenant, at least 1 space for customers, and spaces for vehicle display/inventory. Signage shall be placed on site to designate the intended user for each space.
 - c. All vehicles parked within the vehicle sales area shall be licensed and registered or current dealer-owned inventory. Wrecked automobiles shall not be allowed within the vehicle sales area.
 - d. No vehicle repair or service is permitted within the vehicle sales area.
 - e. Hours of operation for the vehicle sales use shall be limited to 7:00 a.m. to 10:00 p.m.
- 18. Open and Outdoor Storage
 - a. The storage area shall be surrounded by a solid fence, berms, or evergreen planting screen completely preventing a view from any other property or public right of way.
 - b. The storage area shall be surfaced with asphalt or concrete.
- 19. Auto repair (major)
 - a. All outside storage shall be prohibited except the storage of customer vehicles waiting for repair or pick-up.
 - b. All repair and service work shall be completed within an enclosed building.
- 20. This permit is conditioned upon the Applicant obtaining and having in full force all necessary permits, license and approvals from the City, County, State or other governmental agencies which have jurisdiction over such project. In the event that any such permit, license or approval is revoked or not renewed, that shall be considered a violation of this permit.
- 21. All necessary permits as may be applicable must be provided to the City before activity begins and/or before building permits are issued for the site.
- 22. The applicant is responsible for all fees related to the review of this application.
- 23. All fees and financial obligations shall be received by the City prior to the releasing of the Conditional Use Permit for recording.
- 24. The applicant shall record the Conditional Use Permit with the County Recorder.

Approved and adopted by the City Council of the City of St. Francis on the 3rd day of May, 2021.

Steven D. Feldman, Mayor

Attest: Jenni Wida, Deputy City Clerk

This Instrument Drafted By:
Hoisington Koegler Group, Inc.
123 North Third Street Suite 100
Minneapolis, MN 55401
(612) 338-0800

EXHIBIT A

<Insert Legal Description>

(Reserved for Recording Data)

CITY OF ST. FRANCIS
ANOKA COUNTY, MINNESOTA

CONDITIONAL USE PERMIT AT 4140 ST. FRANCIS BLVD NW

1. **PERMIT.** Subject to the terms and conditions set forth herein, the CITY OF ST. FRANCIS hereby grants a Conditional Use Permit to allow the following uses: salvage yard, used vehicle sales, outdoor storage, and major auto repair.
2. **PROPERTY.** This Conditional Use Permit is for the following described property in the City of St. Francis, Anoka County, Minnesota:

 <To Be Inserted>
3. **CONDITIONS.** This Conditional Use Permit is issued subject to construction in accordance with the approved plans submitted with the application and the following conditions:

 <To be inserted once above conditions are finalized>
4. **TERMINATION OF PERMIT.** The City may revoke the permit following a public hearing for violation for the terms of this permit.
5. **LAPSE.** If within one (1) year of the issuance of this Conditional Use Permit the allowed construction has not been completed, this permit shall lapse.
6. **CRIMINAL PENALTY.** Both the owner and any occupant of the subject property are responsible for compliance with this Conditional Use Permit. Violation of the terms of this Conditional Use Permit is a criminal misdemeanor.
7. **RECORDING.** This Conditional Use Permit shall be recorded by the City against the title to the Property.

Dated: May 3, 2021

CITY OF ST. FRANCIS

BY: _____

Steven D. Feldman, Mayor

(SEAL)

AND _____

Joe Kohlmann, City Administrator

STATE OF MINNESOTA)

: ss

COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this 3rd day of May, 2021, by **Steven D. Feldman**, Mayor, and by **Joe Kohlmann**, City Administrator, of the **CITY OF ST. FRANCIS**, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by the City Council.

Notary Public

[Notary Seal]

This Instrument Drafted By:
Hoisington Kogler Group, Inc.
123 North Third Street Suite 100
Minneapolis, MN 55401
(612) 338-0800

PLANNING REPORT

TO: City of St. Francis Planning Commission
FROM: Beth Richmond, Consulting Planner
DATE: April 14, 2021
SUBJECT: CUP Amendment
LOCATION: 4140 St. Francis Blvd NW (PID #06-33-24-13-0006)
MEETING DATE: April 21, 2021
COMP PLAN: Business Park/Light Industrial
ZONING: I-1 Light Industrial/I-1 General Industrial

OVERVIEW

St. Francis Auto Parts is an existing business located south of Hwy 47 on the southern end of the City, adjacent to the City's Public Works Building. This property has an existing CUP which allows the site to be used as a salvage yard. It was originally granted in 1987, and has been amended several times over the years. The most recent amendment was in 2003. The proposed amendment would be the 6th amendment of this CUP.

Today, the site is used as a salvage yard with a building housing individual vehicle sales offices as well. The sales offices are not an approved use in the existing CUP, and so the use is non-compliant. The applicant is requesting to amend the existing CUP to change the permitted uses on the site to bring the vehicle sales use into compliance and to add other uses on the site. The applicant is requesting the following uses: 15 offices for used vehicle sales, salvage yard, auto repair (major), and outdoor storage.



REVIEW PROCEDURE

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. The deadline for the land use request is May 23, 2021.

Public Hearing

City Code Section 10-33-02 requires that a public hearing for review of the land use request be held by the Planning Commission. The public hearing notice was published in the Anoka County Union Herald on April __, 2021 and posted on the City Hall bulletin board on April __, 2021. The public hearing notice was mailed to all affected property owners located within 350 feet of the subject property on April __, 2021.

CONDITIONAL USE PERMIT REVIEW

Comprehensive Plan

The site is guided for Business Park/Light Industrial use by the Comprehensive Plan. This designation is intended for industrial areas and employment centers. Industrial uses and higher intensity office, clinical, and business uses are appropriate in this area. The existing and proposed use of the site as an industrial area is consistent with the 2040 Comprehensive Plan.

Zoning

This parcel is currently included in the I-1 Light Industrial district. With the updated zoning map, this property will be rezoned to the I-1 General Industrial zoning district. The General Industrial district is meant to provide areas for higher intensity industrial uses with convenient access to major streets. The uses proposed with the CUP amendment are consistent with the I-1 General Industrial district.

Uses

There are multiple existing uses on this property. The applicant is proposing to add additional uses on the site which would increase the land use intensity of the site:

- **Scrap or salvage yard:** This is a conditional use in the I-1 district. The salvage yard is an existing use on the property, and has been ongoing on this property since the original CUP was approved for this site in 1987. The salvage yard is surrounded by an 8' tall fence, and is located in the western portion of the site. No changes to this use are requested as part of the CUP amendment.
- **Vehicle sales, leasing and rental:** The applicant has indicated that there are 7 used vehicle sales offices currently existing on the premises. Vehicle sales is a conditional use in the I-1 district, however, the existing CUP does not clearly permit these uses. The 2003 CUP does permit "display of vehicles for sale" in the northeast corner of the site. The applicant is requesting to increase the number of sales offices to 15 by adding an additional 5 offices right away, with room for three more offices in the future. These offices would be located in the existing building on site. No exterior building changes would be necessary.
- **Open and outdoor storage:** The applicant has indicated that he would like to use the southeast corner of the site for outdoor storage, which is a conditional use in the I-1 district. This use was

included as an approved use in the 2003 CUP in the south 110' and east 313' of the site. The proposed area for outdoor storage with this amendment request has been reduced and is located in the south 160' and the east 159' of the site. This use may not occur immediately on the site. The applicant is proposing an additional driveway to access this area when the southeast corner is developed. At that time, a site plan showing the driveway should be provided to Staff for administrative review and approval.

- **Auto repair and service, major:** Five bays for major auto repair are provided within the existing structure. These bays are each roughly 1,000 square feet in size. Major auto repair and service is permitted with standards in the I-1 district, which means that approval of the use by the Planning Commission or City Council is not required so long as all standards are met. However, review of the use as it relates to the other conditional uses on the site is appropriate at this time. After review, Staff has determined that the auto repair and service use meets all required standards.

Lot Dimensions & Setbacks

This lot meets dimensional standards for a lot in the I-1 district. The existing building meets all required setbacks. Land within the I-1 district is limited to a maximum impervious surface of 80%. Based on the materials submitted, staff estimates that the existing impervious surface on the site covers roughly 90 percent of the site, which is considered to be an existing nonconformity for the site. The applicant should provide a to-scale site plan with hardcover dimensions and calculations to demonstrate the existing amount of hardcover and to show that the requested changes to the CUP would not increase the amount on the site.

Driveways/Access

This property has access off of an existing driveway serving this site and the Police and Public Works Facility to the east. This driveway would continue unchanged. Per the existing CUP, a driveway permit from MnDOT will be required because of the change in uses on the site. The application has been submitted to MnDOT for review.

The applicant is proposing to add an internal driveway to the south to access the outdoor storage area as well. This driveway is required to meet all driveway standards in Code Sections 10-72-04 and 10-72-08, including the standards for surfacing and placement of the drive. Plans for the driveway would be reviewed and approved administratively by staff at time of construction.

Parking

21 hardsurfaced parking spaces were required with the 2003 CUP. An existing 90'x465' parking lot is located in the north portion of the site. The applicant has indicated that this lot is where vehicles associated with the vehicle sales use should be parked. The spaces for tenants, customers, and vehicle display should be marked on the site map and identified on the site itself using signage.

There is room for 101 spaces in this lot as shown on the plans. However, the plans show 10 parallel parking spaces in the center of this lot. The location of these spaces does not provide enough space for two-way traffic around the site. Staff recommends removing the parallel parking area proposed for this parking lot reducing the total number of stalls to 91 and increasing the length of each stall to 19 feet long to meet Code requirements.

A 2nd parking lot to the south of the original lot is proposed to hold an additional 70 vehicles. This parking lot would be used to accommodate the parking needs of all of the other uses on the site. As the table below shows, the applicant is proposing a total of 161 parking spaces on site which is more than enough to meet the Code requirements for all of the proposed uses.

Use	Space Requirement		Proposed Spaces
Salvage Yard	1 space per employee on the maximum work shift, plus 3 visitor spaces	7	4 employees
Vehicle Sales	One (1) space per five hundred (500) square feet of showroom plus one (1) space for each three thousand (3,000) square feet of outdoor sales lot.	14 (75)	No indoor showroom. 39,150 SF of outdoor sales lot/3,000 = 14 spaces required. State of Minnesota requires 5 spaces per dealer. 15x5 = 75 spaces required
Outdoor Storage	One (1) space per two thousand (2,000) square feet of outdoor storage or display area in addition to the total parking required on the site for the individual use.	13	160'x159' = 25,440 SF
Auto Repair, Major	At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.	22	5 service stalls proposed
Total	117 spaces required		91+70 = 161 spaces proposed

The existing parking lot shall be striped to meet the 9'x19' City parking stall size requirements. The new parking lot to the south shall meet the requirements in Code Section 10-72-08, which include curbing, striping, and hard surfacing. Gravel and soil are not permitted surfaces for parking areas.

Lighting

There are 8 existing 20-foot light poles serving the parking lot on the northeast corner of the site. These are not proposed to be changed as part of the CUP amendment. Staff has requested additional information from the applicant regarding these light fixtures to ensure that all lighting meets Code requirements.

RECOMMENDATIONS

Staff recommends the following:

1. Staff recommends approval of the Conditional Use Permit amendment for the property at 4140 St. Francis Blvd NW to allow salvage yard, vehicle sales, and outdoor storage on the site with conditions and findings of fact as presented by Staff.

Proposed Conditions of Approval:

Proposed Conditions to be Added:

1. The 2021 City Zoning Map shall be effective prior to recording of this document.
2. Applicant shall provide a to-scale site plan with dimensions identifying each area of the site and its use.
 - a. No approved use shall be expanded past what is shown on the site plan without an amendment to the CUP. Any changes to permitted or permitted-with-standards uses on the site will require administrative review and approve to ensure those changes will not negatively impacted the conditionally permitted uses on the site.
 - b. The northern parking lot shall be modified on the plans. The 10 parallel parking spaces shall be removed, reducing the total number of stalls to 91. Each 90-degree parking stall shall be at least 19 feet long.
3. Applicant shall provide a to-scale site plan with dimensions and calculations of existing and proposed hardcover on the site to ensure that total hardcover on the site shall not be increased.
4. All parking lots on the site shall be striped according to the requirements set forth in Code Section 10-72-08. The southern parking lot shall meet all applicable requirements of Code Section 10-72-04 and 10-72-08.
5. Plans for the driveway leading to the outdoor storage use shall be provided to Staff and reviewed administratively for compliance prior to construction.
6. Applicant shall provide additional information to Staff to demonstrating that all lighting on site meets the requirements of City Code Section 10-71-04.
7. All vehicle fluid draining shall be conducted within a building.
8. All petroleum products, anti-freeze, and hazardous materials shall be disposed of in accordance with local and state regulations.
9. Applicant shall provide a sewer certification from a qualified entity demonstrating that the existing system is capable of handling the increase in intensity on the site. If changes or additional capacity is needed, the applicant will be required to connect to the City's system.
10. Applicant shall provide a stormwater management plan/strategy to ensure runoff is appropriately managed to protect against pollutant discharge.
11. Open and Outdoor Storage
 - a. The storage area shall be surrounded by a solid fence, berms, or evergreen planting screen completely preventing a view from any other property or public right of way.
 - b. The storage area is surfaced with asphalt or concrete
12. Salvage Yard
 - a. Travelways through the storage yard shall be maintained to allow for fire and emergency access.
13. Auto repair (major)
 - a. All outside storage shall be prohibited except the storage of customer vehicles waiting for repair or pick-up.
 - b. All repair and service work shall be completed within an enclosed building.
14. Vehicle Sales, Leasing, and Rental

- a. Parking spaces for vehicle sales tenants, customers, and merchandise shall be located in the northern parking lot. No fewer than five (5) parking spaces per tenant shall be provided. Signage shall be placed on site to designate the intended user for each stall.
 - b. All vehicles parked within the vehicle sales area shall be licensed and registered or current dealer-owned inventory. Wrecked automobiles shall not be allowed within the vehicle sales area.
 - c. No vehicle repair or service is permitted within the vehicle sales area.
 - d. Hours of operation for the vehicle sales use shall be limited to 7:00 a.m. to 10:00 p.m.
15. All fees and financial obligations shall be received by the City prior to the releasing of the subdivision documents for recording.
16. Other conditions identified during the review process by Staff, the Planning Commission, or the City Council.

Existing Conditions to Remain

Some of the conditions listed here are ongoing. Others have already been completed, but were retained in this CUP amendment to ensure that the elements required in those conditions are properly maintained.

17. An eight (8) foot wooden fence is to be constructed across the North, East and West sides of the subject property according to the amended Site Plan (Exhibit A) on file with the City dated June 2, 2003, pursuant to the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT. The fencing requirement for the salvage operation shall be as follows:
- a. The required fencing shall be of a uniform elevation and will provide for 100% screening of the salvage yard contents. For the purpose of this requirement, the uniform elevation shall be set at 8 feet above the floor elevation of the existing structure. The actual height of the fence may vary depending upon topographic conditions. A trim board shall be provided along the top of the fencing material. Tiered fencing may be permitted. In no case shall the elevation of the fence be less than 6 feet above the centerline of Highway 47.
 - b. The fencing requirement noted in Item 17(a) shall be a condition of the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT for the following fencing: (1) The existing fence which commences from the Northeast corner of the existing structure and projects East to the East property line shall be constructed meeting the requirements of Item 1 (a). The fence shall be constructed in the same location or shall be constructed commencing at the Southeast corner of the proposed addition projecting East and terminating at the existing fence along the East property line of the subject property, and (2) The existing fence and gate which commences from the Northwest corner of the existing structure and projects North to the North property line.
 - c. All gates are to be solid so the contents are not visible.
 - d. The fence is to be kept in good repair and in neat condition at all times. The fence required under Item (b) is to be completed prior to the issuance of a Certificate of Occupancy for the proposed addition request under the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT.
 - e. Chain link fencing shall provide slats for screening or other approved screening materials.
18. The contents of the salvage yard shall not exceed the height of the fence.

19. The fence shall not be used for bill posting or other advertising purposes, except that one sign (which meets the requirements of the St. Francis City Code) advertising the business of the applicant will be allowed.
20. There is to be no storage outside of the fence area or visible to the public.
21. Demolishing or wrecking of cars shall be permitted between the hours of 7a.m. to 8 p.m. Monday through Saturday.
22. No combustible material of any kind not necessary or beneficial to the business shall be kept on the premises nor shall the premises be allowed to become a fire hazard.
23. The applicant shall at all times retain on file and shall permit inspection by any member of the St. Francis City Council or its authorized representative the following:
 - a. A copy of the Bill of Sale or Title Card, with motor vehicle serial number contained thereon, for each motor vehicle purchased within the previous thirty-six (36) months.
 - b. The name, address, and telephone number of each person who has sold a motor vehicle to the business within the previous thirty-six (36) months and attached thereto or filed therewith shall be the license number of the motor vehicle to be junked and in addition to the foregoing, information shall be filed containing the description, license number and serial number that was sold to the business.
24. The salvage yard shall not be allowed to become a nuisance or operated in such a manner to become injurious to the health, safety, or welfare of the community or any resident close by. In order to help prevent groundwater contamination, a 50 foot wellhead protection area shall be established (Exhibit B). No storage shall be permitted within the Wellhead Protection Area. No storage shall be permitted within the on-site sewage treatment area located along the East property line (Exhibit B).
25. The driveway established at the time this permit was granted will be allowed by the State of Minnesota and the City. At the time the use of the land is changed or the parcel is subdivided a new driveway permit must be obtained from the Minnesota Department of Transportation.
26. This permit is conditioned upon the Applicant obtaining and having in full force all necessary permits, license and approvals from the City, County, State or other governmental agencies which have jurisdiction over such project. In the event that any such permit, license or approval is revoked or not renewed, that shall be considered a violation of this permit.
27. That in the event of any violation of State Law, City Ordinances or conditions and covenants herein found, the City shall give the developer written notice of a public hearing which is to be held within thirty (30) days and notice to cure such violation or defect within thirty (30) days. If such violation or defect is not cured, the City shall hold a public hearing for the purpose of determining whether or not the Conditional Use has been violated, and if the Council so finds a violation exists which has not been cured, then the City shall have the right to declare this Conditional Use Permit null and void.
28. This Conditional Use Permit shall be reviewed on a yearly basis at the time of the renewal of the Salvage Yard License.
29. The Conditional Use Permit shall be effective commencing on the 8th day of September, 1987 and the Amended Order shall be effective commencing on the 1st day of October, 1990 and the legal description contained in the Second Amended Conditional Use Permit shall relate back to the effective date of the above referenced agreements, and the City Clerk shall cause this permit to be duly recorded in the office of the Anoka County Recorder.

30. The applicant shall install the required site improvements as noted on the revised Site Plan dated February 24, 1997.

Proposed Findings of Fact

1. The proposed CUP amendment is consistent with the City's 2040 Comprehensive Plan and the proposed uses are compatible with present and future land uses of the area.
2. With conditions, the proposed uses conform with all performance standards contained in the City's Zoning Ordinance.
3. The proposed use is served by an individual well and septic system and will not overburden the City's service capacity.
4. Traffic generation by the proposed use is within capabilities of streets serving the property.

PLANNING COMMISSION ACTIONS

After the public hearing and discussion, the Planning Commission could take one of the following actions:

1. Recommend approval with the conditions and findings of fact as presented by Staff.
 - a. Proposed Motion:
Move to recommend approval of the amendment to the existing Conditional Use Permit for the property at 4140 St. Francis Blvd with conditions and findings of fact as recommended by Staff.
2. Recommend denial with Planning Commissioners' findings of fact.
3. Table the request to the next Planning Commission meeting and provide direction to Staff and the applicant as to the additional information needed.

ATTACHMENTS

- Applicant submittals
- 2003 CUP

03/24/2021

City of St Francis

St. Francis MN. 55070

Hello. My name is Rick Sonsteby, owner of St Francis Auto Parts Inc. I have been a business owner here in St Francis for the last 38 years, since 1983. This is in regards to my current CUP which has not been changed or revised since I moved to my present location from across the street in June of 2003. The CUP issued in June of 2003 #5 states "Display of used vehicles for sale" instead of "Used cars for sale". Since the verbiage and use of said verbiage sounds about the same to me, I'm unsure as to why we are here.

I have also submitted plans for what I would like to do this spring with the addition of 5 more offices in the Northeast corner of the main building (the 40 x 100), 2 offices in the front with a short sidewalk on the east side for 3 offices which would need 25 parking spots. My plans show we have enough space for 101 parking spaces, only 35 are being utilized right now for existing 7 offices so parking space shouldn't be an issue. The shaded area is the allocated parking space that was decided in 2003. The additional plans are what I would like to do in the near future, their uses are allowable under my light industrial zoning. With all this being said I am at loss as to why we have to have this meeting at a cost of \$2350.00.

Sincerely,

Rick Sonsteby

A handwritten signature in black ink, appearing to read "Rick Sonsteby", with a long, sweeping horizontal line extending to the right.

61' 38h + 103

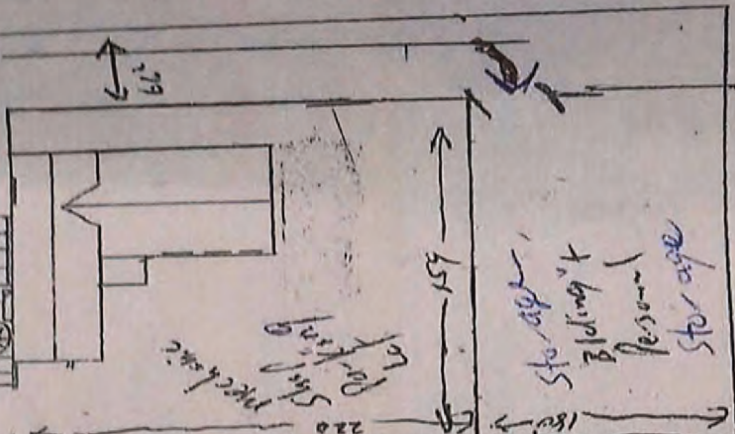
N 810' Front

Hwy 47

338

338

used car Sales Lot



New

Salvage

Crane

810' Back

S

West 108 9/1

*ALL HINGED SWINGING DOORS TO BE 36" PER PLAN.

PERPENDICULAR SPACES

PARALLEL SPACES

PARKING DETAILS

20-10-2011 5:00 PM

Supply information to every all business and consumer in full and be responsible for the same. Consumers to contact dealers and other service agents for

DATE 12-13-1977
BY PJH a/jh

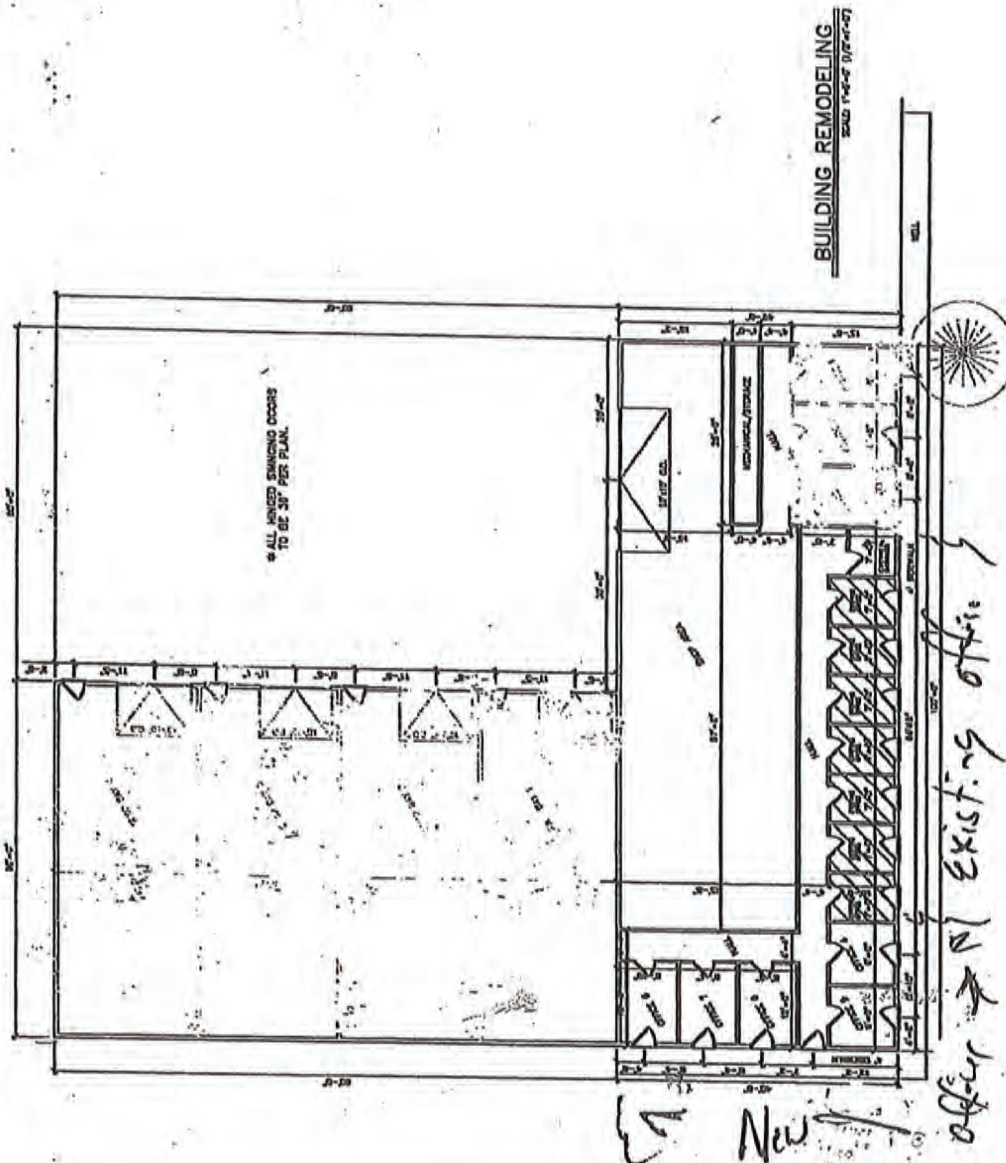
NAME	John S. Gentry
ADDRESS	11111 N. 11th St., Phoenix, AZ 85021
CITY	Phoenix, AZ
STATE	Arizona

Kelly Pearo, Drafter
Call 641-861-7063
E: kumara@kellypearo.com

NAME
2 of 2

Diagram illustrating dimensions for parking spaces:

- Rectangular Space:** 18'-0" wide, 8'-0" deep.
- Parallelogram Space:** 18'-0" wide, 8'-0" deep, with a 30-degree angle indicated.
- Scale:** 1/4" = 1'-0"



offer $\rightarrow$ existing office

BUILDING REMODELING

• ALL HINGED SWINGING DOORS
TO BE 30" PER PLAN.

PERPENDICULAR SPACES PARALLEL SPACES
PARKING DETAILS

[illegible]

NAME
2 of 2

• Kelly Pearo, Drafter
7500 24th Ave NW
Minnetonka, MN 55345
Call: 812-404-7745
E: kpearo@7d.com

[illegible]

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With quality, health care and other products, **Chrysler is improving** the way we transport you and the planet. We're excited to help you improve your health, too. Visit www.chrysler.com/health for more information.

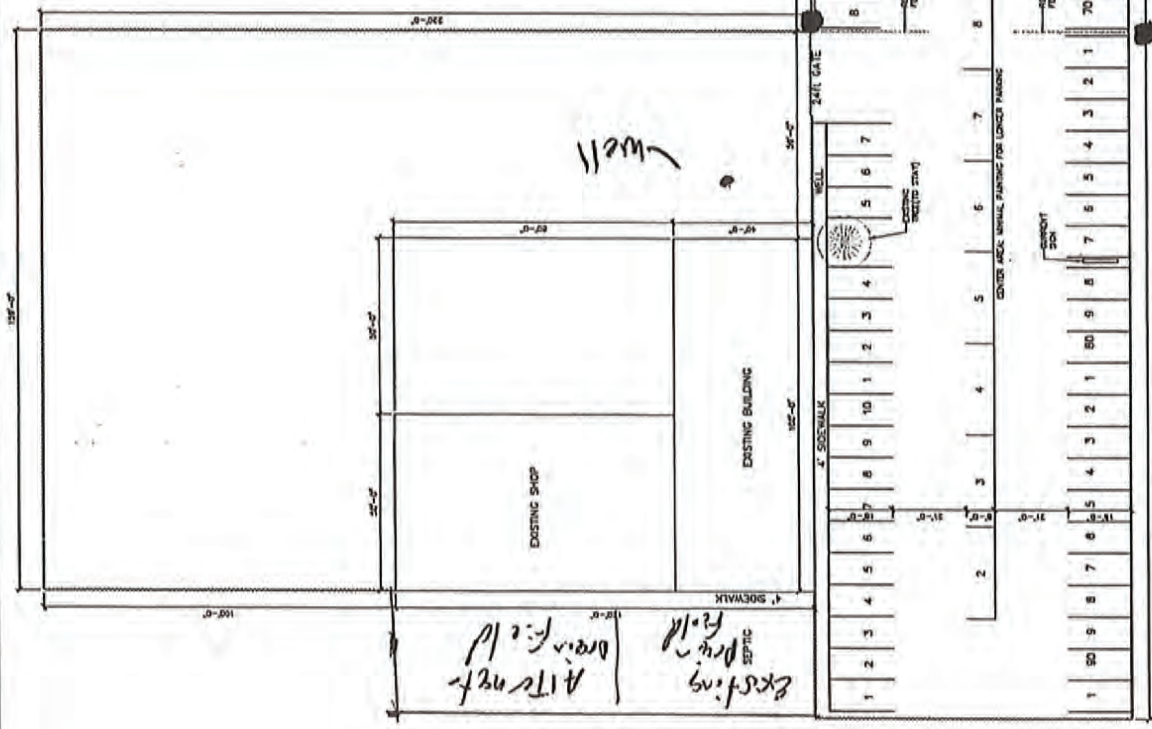
127049



Parking Now

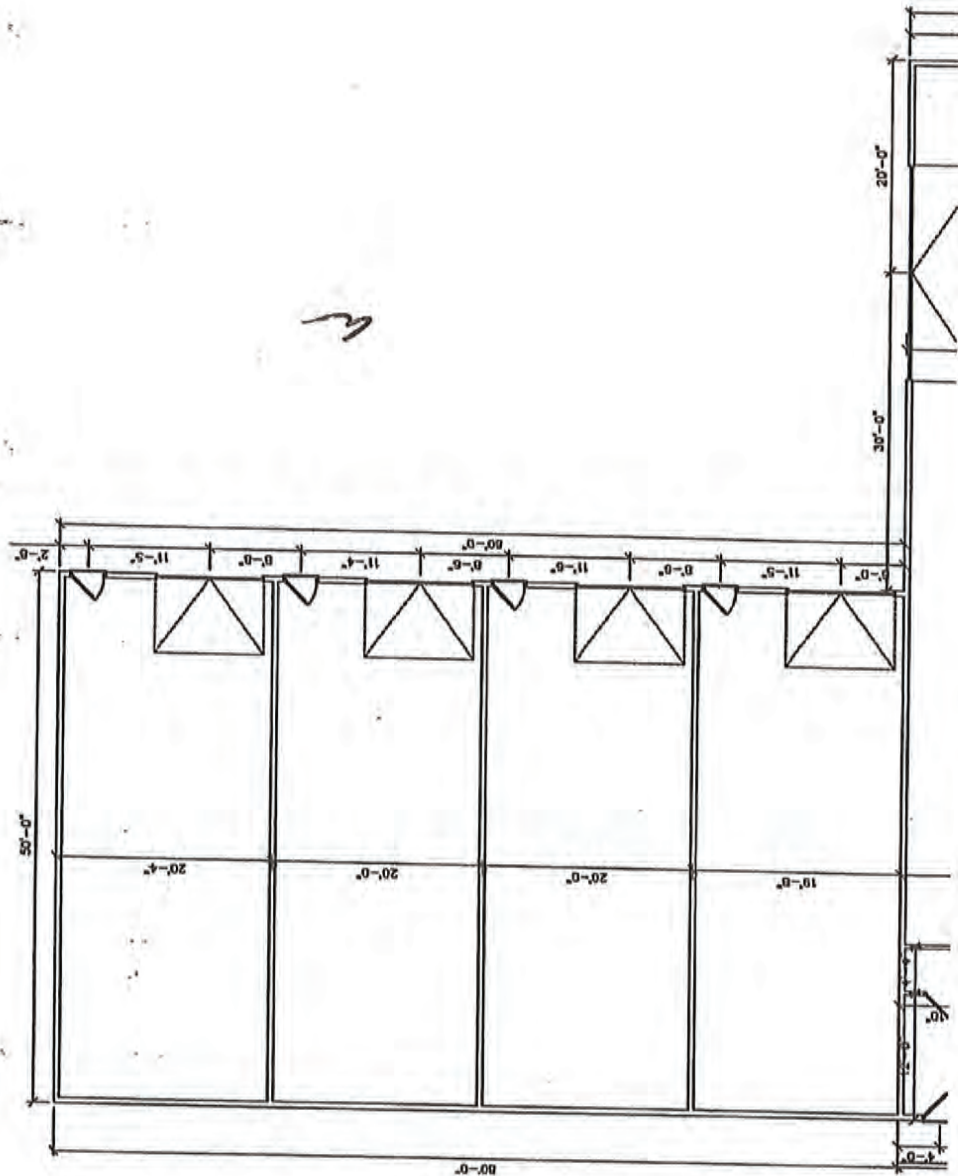
Dots Are Lights
Current Lights

LOT DETAILS & PARKING AREAS
SCALE 1"=10'-0"



PREPARED BY Kelly Peano, Drafter C.E. 000-000-000 000-000-000	
CHECKED BY DATE 00-00-00	PROJECT NO. 000-000-000
SHEET NO. 1 OF 2	

Proposed Back
 of 50'0" x 80'0" days

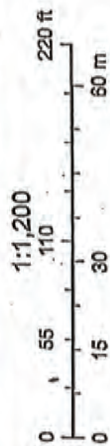


488' x on West Side
 469' x on East Side
 Lot Size
 Car Sales allowed Area 810' Front



August 6, 2018

810' Ft in Back



Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

401137 Parking for
 Car Sales allowed Area
 2011 Parking Shop for Future Street



August 6, 2018

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey or for zoning verification.

Carlot Parking
Designated 90X435
101
Parking Spot

Car Sales allowed Area



August 6, 2018

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

STATE OF MINNESOTA

CITY OF ST. FRANCIS

COUNTY OF ANOKA

CONDITIONAL USE
PROCEEDINGS

In the Matter of

REQUEST OF:

RICHARD AND SUE SONSTEBY,
APPLICANTS

FIFTH AMENDED ORDER
FOR CONDITIONAL USE
PERMIT

The above entitled matter came on to be heard before the St. Francis City Council on the 2nd day of June, 2003 after a public hearing had been held by the St. Francis Planning Commission on a Petition for an amendment to a Conditional Use Permit pursuant to the St. Francis Zoning Ordinance, St. Francis City Code Chapter 10 for the following described property:

The East 620 feet of the Southwesterly Quarter of the Northeast Quarter, Section 6, Township 33, Range 24, lying North of the South 825 feet thereof and the West 157 feet of the Southeast Quarter of the Northeast Quarter of said Section lying North of the South 825 feet thereof except roads, subject to easements of record.

NOW, THEREFORE, IT IS HEREBY ORDERED, that the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT be granted to St. Francis Auto Part upon the following conditions:

1. An eight (8) foot wooden fence is to be constructed across the North, East and West sides of the subject property according to the amended Site Plan (Exhibit A) on file with the City dated June 2, 2003, pursuant to the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT. The fencing requirement for the salvage operation shall be as follows:
 - a) The required fencing shall be of a uniform elevation and will provide for 100% screening of the salvage yard contents. For the purpose of this requirement, the uniform elevation shall be set at 8 feet above the floor elevation of the existing structure.

The actual height of the fence may vary depending upon topographic conditions. A trim board shall be provided along the top of the fencing material. Tiered fencing may be permitted. In no case shall the elevation of the fence be less than 6 feet above the centerline of Highway 47.

- b) The fencing requirement noted in Item 1, (a) shall be a condition of the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT for the following fencing: (1) The existing fence which commences from the Northeast corner of the existing structure and projects East to the East property line shall be constructed meeting the requirements of Item 1 (a). The fence shall be constructed in the same location or shall be constructed commencing at the Southeast corner of the proposed addition projecting East and terminating at the existing fence along the East property line of the subject property, and (2) The existing fence and gate which commences from the Northwest corner of the existing structure and projects North to the North property line.
 - c) All gates are to be solid so the contents are not visible.
 - d) The fence is to be kept in good repair and in neat condition at all times. The fence required under Item (b) is to be completed prior to the issuance of a Certificate of Occupancy for the proposed addition request under the FIFTH AMENDED ORDER FOR CONDITIONAL USE PERMIT.
 - e) Chain link fencing shall provide slats for screening or other approved screening materials.
- 2. The contents of the salvage yard shall not exceed the height of the fence.
 - 3. The fence shall not be used for bill posting or other advertising purposes, except that one sign (which meets the requirements of the St. Francis City Code) advertising the business of the Applicant will be allowed.
 - 4. There is to be no storage outside of the fence area or visible to the public.
 - 5. Display of vehicles for sale shall be limited to the North 90 feet of the East 465 feet of the subject property. Only vehicles that are operable and in good repair shall be displayed outside of the fenced area. No vehicles with body damage or missing components shall be permitted to be displayed outside of the fenced area.
 - 6. Demolishing or wrecking of cars shall be permitted between the hours of 7 a.m. to 8 p.m. Monday through Saturday.
 - 7. No combustible material of any kind not necessary or beneficial to the business shall be kept on the premises nor shall the premises be allowed to become a fire hazard.

8. All vehicle fluids shall be removed and disposed of in an environmentally approved manner from any scrapped engines or scrapped vehicles on the premises. The removal of said fluids shall be conducted in accordance with EPA regulations. Fluids shall not be removed in the storage area of the salvage yard.
9. The applicant shall at all times retain on file and shall permit inspection by any member of the St. Francis City Council or its authorized representative the following:
 - a) A copy of the Bill of Sale or Title Card, with motor vehicle serial number contained thereon, for each motor vehicle purchased within the previous thirty-six (36) months.
 - b) The name, address, and telephone number of each person who has sold a motor vehicle to the business within the previous thirty-six (36) months and attached thereto or filed therewith shall be the license number of the motor vehicle to be junked and in addition to the foregoing, information shall be filed containing the description, license number and serial number that was sold to the business.
10. The salvage yard shall not be allowed to become a nuisance or operated in such a manner to become injurious to the health, safety, or welfare of the community or any resident close by. IN order to help prevent groundwater contamination, a 50 foot wellhead protection area shall be established (Exhibit B). No storage shall be permitted within the Wellhead Protection Area. No storage shall be permitted within the on-site sewage treatment area located along the East property line (Exhibit B).
11. Twenty-one Hardsurfaced off street parking stalls shall be provided pursuant to the site plan dated February 24, 1997, maintained for employees and patrons of the premises.
12. (Condition #12 Repealed as per Third Amended CUP).
13. The driveway established at the time of this permit was granted will be allowed by the State of Minnesota and the City. At the time the use of the land is changed or the parcel is subdivided a new driveway permit must be obtained from the Minnesota Department of Transportation.
14. (Condition #14 Repealed as per Third Amended CUP).
15. (Condition #15 Repealed as per Third Amended CUP).
16. (Condition #16 Repealed as per Third Amended CUP).
17. This permit is conditioned upon the Applicant obtaining and having in full force all necessary permits, license and approvals from the City, County, State or other governmental agencies which have jurisdiction over such project. In the event that any such permit, license or approval is revoked or not renewed, that shall be considered a violation of this permit.

18. That in the event of any violation of State Law, City Ordinances or conditions and covenants herein found, the City shall give the developer written notice of a public hearing which is to be held within thirty (30) days and notice to cure such violation or defect within Thirty (30) days. If such violation or defect is not cured, the City shall hold a public hearing for the purpose of determining whether or not the Conditional Use has been violated, and if the Council so finds a violation exists which has not been cured, then the City shall have the right to declare this Conditional Use Permit null and void.
19. This Conditional Use Permit shall be reviewed on a yearly basis at the time of the renewal of the Salvage Yard License.
20. The Conditional Use Permit shall be effective commencing on the 8th day of September, 1987 and the Amended Order shall be effective commencing on the 1st day of October, 1990 and the legal description contained in the Second Amended Conditional Use Permit shall relate back to the effective date of the above referenced agreements, and the City Clerk shall cause this permit to be duly recorded in the office of the Anoka County Recorder.
21. The applicant shall pay all reasonable fees and expenses of the City for work performed by the City Administration, Attorney or Engineer in regard to the issuance and enforcement of this Conditional Use Permit.
22. The use (salvage yard) cannot expand beyond its current limits. Expansion of the salvage yard shall require an amendment to the Conditional Use Permit.
23. The applicant shall be responsible for the cost of constructing turn lanes on Highway 47 at such time as they are required by the State of Minnesota.
24. The applicant shall install the required site improvements as noted on the revised Site Plan dated February 24, 1997.
25. The permitted area for the Auto Salvage operation shall exclude the South 110 feet of the East 313 feet of the subject property. This area shall be designated for Personal Storage.

BE IT FURTHER RESOLVED that the City of St. Francis hereby approves a Conditional Use Permit for one (1) 50 foot by 200 foot Personal Storage structure pursuant to the following conditions:

1. The Personal Storage structure (one 50 foot by 200 foot structure) shall be confined to the South 110 feet of the East 313 feet of the subject property.
2. Site screening shall be provided in accordance to the proposed site plan and fencing requirements provided for under the Auto Salvage Conditional Use Permit.
3. A complete drainage plan shall be prepared and submitted to the City for review prior to construction of additional storage units.
4. Waste shall not be allowed to accumulate on the site of the Personal Storage Units. All household waste, furniture, discarded items, etc. shall be promptly removed from the site.

5. If open storage is requested, permitted items shall be limited to boats, campers, trailers, and personal recreational vehicles. Items located within an open storage area shall not be visible from State Highway 47. The open storage area shall be constructed with at Class 5 gravel. Grass and weeds shall not be permitted to exceeds 6 inches in height within the open storage area.
6. All vehicles, vehicle parts and components, and other associated with the auto salvage operation shall be removed from within the area approved for Personal Storage before the issuance of a building permit for the Personal Storage structure.
7. The parking and drives intended to service the Personal Storage Units shall be hardsurfaced.
8. The eastern wall of the Personal Storage unit shall be constructed in accordance with the architectural requirements of the Light Industrial Zoning District.

Date: 6-3, 2003

CITY OF ST. FRANCIS

APPROVED:


Randy Dressen
Acting Mayor of St. Francis

ATTEST:


Barbara I. Held
City Clerk/Treasurer

STATE OF MINNESOTA)
) ss.
COUNTY OF BENTON)

The foregoing instrument was acknowledged before me this 6th day of June, 2003, by Randy Dressen and Barbara I. Held, its Acting Mayor and City Clerk/Treasurer of the City of St. Francis.


Notary Public





City Council
AGENDA REPORT
Agenda Item #
9B

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Update – Chapter 6 Business Regulations and Licensing,
Section 7 Kennels – Second Reading
DATE: May 3, 2021

OVERVIEW

With the update of the Zoning Code, it was identified that the Kennels ordinance fell into two sections of code but was not clearly defined as to the differences between the zoning requirements and the licensing requirements. Staff has moved all zoning requirements of the Kennel ordinances into Chapter 10 Zoning and is offering clarified language regarding the Kennel license in Chapter 6 as an update.

ITEMS TO BE DISCUSSED:

Council to review and approve 2nd reading of Ordinance 272 SS Chapter 6 Business Regulation and Licensing, Section 7 Kennels

TIMELINE:

Council agreed to language as presented and held the first reading putting the ordinance on the following timeline for updates:

April 19 – 1st Reading
May 3rd – 2nd Reading
May 7th – Publish for Comment
June 7th - Effective

ATTACHMENTS:

- Draft Chapter 6 Business Regulation and Licensing, Section 7 Kennels
- Resolution 2021-16 Summary Publication Kennel Ordinance Update

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

ORDINANCE 272, SECOND SERIES

AN ORDINANCE AMENDING CHAPTER 6, SECTION 7 “KENNELS”

THE CITY OF ST. FRANCIS ORDAINS:

Section 1. Code Amended. That Chapter 6, Section 7 shall hereby be amended to read as follows:

“Exhibit A”.

Section 2. Effective Date. This Ordinance shall take effect thirty days after publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS
THIS 3rd OF MAY, 2021.

APPROVED:

Steven D. Feldman
Mayor of St. Francis

ATTEST:

Jenni Wida
Deputy City Clerk

(seal)

SECTION 7. - KENNELS

6-7-1. - Kennels.

~~A. *Defined.* For the purpose of this Section, the term "kennel" means any place, building, tract of land, abode or vehicle, wherein or whereon two or more dogs, over six months of age are kept, kept for sale, or boarded.~~

~~BA. *License Required.* It is unlawful for any person to operate or maintain a kennel without a license therefore from the City. No person shall maintain a private or commercial kennel in the City without securing a license therefor from the city council. No party, person, corporation or other entity will be allowed more than one private kennel license. For the purposes of this Section~~

~~a. Private kennel shall be identified as a place where more than 3 dogs over six months of age are kept for private enjoyment and monetary gain, provided such animals are owned by the owner or the lessee of the premise on which they are kept.~~

~~b. Commercial kennel shall be identified as a place where a person accepts dogs from the general public and where such animals are kept for the purpose of selling, boarding, breeding, training or grooming, except for a veterinary clinic.~~

~~B. Fees for the license and operation of a Kennel shall be established by the City Fee Schedule.~~

~~C. Prior to issuance of a private or commercial kennel license, a complete application and fee must be submitted to the City meeting all ordinances, standards and requirements as set forth in Chapter 10 Zoning. Application will be reviewed by the zoning administration for completeness and eligibility.~~

~~D. Private kennel licenses do not confer any property rights upon the licensee and the issuance of said licenses does not assume that future licenses will be granted. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog need to reapply for a private kennel license. Licenses who relocate to another area of the city need to reapply for a private kennel license. Licenses are not assignable to other parties.~~

~~E. Licenses authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of the license.~~

~~F. Conditions for issuance of a private kennel license.~~

~~The following conditions are mandatory for the issuance of a private kennel license:~~

~~— Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.~~

~~1. Dogs shall be confined to their own property by a provable means.~~

~~2. Housing and shelter must be provided which will keep animals comfortable and protected from the elements.~~

~~3. All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.~~

~~4. Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.~~

~~5. Kennels shall be considered an accessory structure for setback purposes.~~

~~6. Accumulations of feces shall be located at least 200 feet from any well.~~

~~7. All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.~~

~~1. All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.~~

~~— The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.~~

~~8. Kennels shall be considered an accessory structure for setback purposes.~~

~~G. Conditions for issuance of a commercial kennel license.~~

The following conditions are mandatory for the issuance of a commercial kennel license:

1. Outdoor animal exercise shall be conducted within the confines of the property, and limited to leashed animals under the direct supervision of their owners or commercial kennel staff.
2. Indoor housing facilities must be structurally sound with ample heat, light, soundproofing and ventilation. The applicant must submit a soundproofing inspection certifying that the structure will keep the sound of the dogs undetectable from a distance of ten feet.
3. Dogs kept outside must have continual access so animals can get in and out of shelter and protect them from the elements.
4. If dogs are confined by chains, such chains must be attached so as not to become entangled with chains of other dogs.
5. Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.
6. The temperature of indoor housing facilities shall not be less than 50 degrees Fahrenheit for dogs not accustomed to lower temperatures.
7. Disposal facilities are provided to minimize virus infestation, odors and disease hazards.
8. Adequate storage and refrigeration is provided to protect food supplies against contamination and deterioration.
9. The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.
10. All applicable county and state laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference.
11. Commercial kennels in [agricultural](#), commercial, and industrial districts shall meet the underlying zoning regulations.
12. Commercial kennels shall be connected to public sewer or an on-site treatment system to handle waste.

H. Revocation of kennel licenses.

1. Upon observation that one or more of the conditions issued by the city council on a private or commercial kennel license holder is not observed, the city will notify the licensee that the city intends to suspend or revoke the private or commercial kennel license. A recommendation to the city council to revoke a private kennel license will require a majority of those members present and voting. A decision by the city council to revoke a private kennel license will require a majority vote of those members present and voting. The decisions of the city council pertaining to private kennel licenses are final and not appealable; the decisions of the city council on commercial kennel licenses are appealable to the county district court.

2. Upon evidence that the decision of the city council has not been followed by the licensee, and in the case of commercial kennel licensees an appeal has not been filed in county district court, the city will contact the animal control officer to pick up the dog and arrange for compliance with the city council's decision. All costs associated with compliance will be billed to the real property owner where the dog resides. Unpaid bills will be certified to the county and placed as a lien on the property.

~~C. *Exception.* Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from the provisions of this Section.~~

~~D. *Minimum Land Requirement.* Licenses shall only be issued, and kennels maintained, on tracts of land containing at least five contiguous acres.~~

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

RESOLUTION 2021-16

**A RESOLUTION AUTHORIZING THE SUMMARY PUBLICATION OF
ORDINANCE 272, SECOND SERIES AMENDING CHAPTER 6-7 OF THE CITY
CODE REGARDING KENNELS FOR THE CITY OF ST. FRANCIS**

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Ordinance 272 Second Series will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED that the following summary of Ordinance 272, Second Series is approved for publication:

CITY OF ST. FRANCIS, MINNESOTA
ORDINANCE 272, SECOND SERIES

Section 1. The St. Francis City Code is hereby amended to include the following ordinance summarized below:

St. Francis City Code is hereby amending Chapter 6-7 Kennels

Section 2. The full ordinance will be in effect 30 days from this summary publication.

Section 3. The full ordinance is available for review during regular office hours in the office of the City Clerk.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS THIS 3rd DAY OF MAY, 2021.

APPROVED:

Attest:

Steven D. Feldman, Mayor

Joe Kohlmann, City Administrator



**City Council
AGENDA REPORT**
Agenda Item #
9C

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
Ordinance Update – Chapter 6 Business Regulations and Licensing,
SUBJECT: Section 14 Peddlers, Solicitors and Transient Merchants – Second
Reading
DATE: May 3, 2021

OVERVIEW

Council approved this ordinance on January 2, 2018. However, in the process of updating and adding other ordinance over the year, the numbering system was overlapped and subsequently removed this ordinance from code. Staff is bringing this through the process as a housekeeping step to get it back into code.

ITEMS TO BE DISCUSSED:

Council to review and approve the 2nd reading of Ordinance 273 SS Chapter 6 Business Regulation and Licensing, Section 14 Peddlers, Solicitors and Transient Merchants

TIMELINE:

Council was in favor of the insertion of the Peddlers, Solicitors and Transient Merchants ordinance as written putting the Ordinance on the following timeline:

April 19 – 1st Reading

May 3rd – 2nd Reading

May 7th – Publish for Comment

June 7th - Effective

ATTACHMENTS:

- Draft copy of Chapter 6 Business Regulation and Licensing, Section 14 Peddlers, Solicitors and Transient Merchants.
- Resolution 2021-18 Summary Publication Ordinance Peddlers, Solicitors and Transient Merchants

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

ORDINANCE 273, SECOND SERIES

AN ORDINANCE AMENDING CHAPTER 6, SECTION 14 “PEDDLERS, SOLICITORS
AND TRANSIENT MERCHANTS”

THE CITY OF ST. FRANCIS ORDAINS:

Section 1. Code Amended. That Chapter 6, Section 14 shall hereby be amended to read as follows:

“Exhibit A”.

Section 2. Effective Date. This Ordinance shall take effect thirty days after publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS
THIS 3rd OF MAY, 2021.

APPROVED:

Steven D. Feldman
Mayor of St. Francis

ATTEST:

Jenni Wida
Deputy City Clerk

(seal)

CHAPTER 6_ SECTION 14 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

- 6-14-1 Purpose
- 6-14-2 Definitions
- 6-14-3 Regulation Established Application for License
- 6-14-4 License Ineligibility
- 6-14-5 Transient Merchant License
- 6-14-6 Peddler and Solicitor License
- 6-14-7 Standards of Conduct
- 6-14-8 Suspension, Revocation and Prohibited Activities
- 6-14-9 Exclusion by Placard
- 6-14-10 Penalty Enforcement
- 6-14-11: Severability

6-14-1: Purpose. The City Council finds that peddlers, solicitors, and transient merchants, by virtue of the temporary nature of their business and the lack of permanent location for their operations, present unique consumer protection problems. In order to protect the health, safety, and welfare of the community and pursuant to the authority granted by Minn. Stat. § 329.15, the City of St. Francis herein licenses and regulates all peddlers, solicitors and transient merchants operating within the city, as described herein. The purpose of this chapter of the city code is to prevent fraud and criminal activity, such as burglary, theft, and assault and to protect the privacy of residents in their homes by requiring peddlers, solicitors and transient merchants to be licensed, and to impose restrictions on their operations within the city that are narrowly tailored to address the risks these operations pose to the public health, safety and welfare. It is not the purpose of this ordinance to burden interstate commerce or interfere with constitutionally protected rights under the First Amendment of the United States Constitution or Art. I, Section 3 of the Minnesota Constitution.

6-14-2: Definitions. Unless the context clearly indicates otherwise, the words below are defined for the purpose of this section as follows:

- A. "Licensee" means an individual, partnership, corporation or association licensed within the city under this section and also includes a person who is or will be conducting the regulated activity on behalf of the licensee.
- B. "Non-Commercial Door to Door Advocate" means a person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocates shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

- C. "Non-profit" means an organization that currently has tax-exempt status from either the state or federal government and provides written evidence of that status.
- D. "Occupant" means a person living, staying, or working at a residence, including a guest.
- E. "Peddler" means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.
- F. "Person" means any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.
- G. "Regular Business Day" means any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.
- H. "Regulated activity" means the activity of a peddler, solicitor, or transient merchant as defined in this section.
- I. "Solicitor" means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.
- J. "Transient merchant" means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than ninety (90) consecutive days.

6-14-3: Regulation Established-Application for License Required.

A person engaging in a regulated activity within the city, as defined herein, must comply with the provisions of this section. A person engaging in a regulated activity within the city must first obtain a license, and an identification card from the City Clerk. The person must also comply with any applicable zoning and health regulations.

A. Exceptions. A person engaging in any of the following activities is not required to obtain a license or an identification card from the city:

1. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
2. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
3. Any person selling products of the farm or garden grown or raised by the seller, including meat, provided such activities comply with applicable health regulations.
4. Any person selling antiques, collectibles, art work or other similar products in a show or festival which lasts for five days or less and which involves two or more sellers or exhibitors.
5. Any person calling upon residents in connection with establishing or servicing a regular route service for the sale and delivery of perishable daily necessities of life such as bakery products and dairy products.
6. Any person conducting the type of sale commonly known as garage sales, estate sales, or rummage sales.
7. School children, age 17 or younger, soliciting for school-sponsored activities or for other charitable youth-oriented fundraisers.
8. Any person doing business by appointment.
9. Any person participating in an organized multi-person bazaar or flea market.
10. Any person conducting an auction as a properly licensed auctioneer.
11. Any officer of the court conducting a court-ordered sale.
12. Any non-commercial door-to-door advocate exercising that person's state or

federal constitutional rights such as freedom of speech, freedom of press, freedom of religion, and the like. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. A person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under this section. This exception will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

Exceptions under this section, shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by any other city ordinance or county requirement.

B. Application. Application for a license must be made at least ten (10) business days before the regulated activity is proposed to begin and must include an accurate, sworn statement in writing, on a form furnished by the city, that gives the required information listed below and includes any required supporting documentation:

1. The applicant's full legal name.
2. Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
3. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).
4. Full address of applicant's permanent residence.
5. Telephone number of applicant's permanent residence.
6. Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
7. Full address of applicant's regular place of business, if any exists.
8. Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
9. The type of business for which the applicant is applying for a license.
10. The duration of the license for which the applicant is applying.
11. The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be

conducting business within the city.

12. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
 13. A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.
 14. A list of the three (3) most recent locations where the applicant has conducted business as a peddler, solicitor or transient merchant.
 15. Proof of any required county license.
 16. Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.
 17. A general description of the items to be sold or services to be provided.
 18. Any and all additional information as may be deemed necessary by the City Council.
 19. The applicant's driver's license number or other acceptable form of identification.
 20. The license plate number, registration information, vehicle identification number (**VIN**) and physical description for any vehicle to be used in conjunction with the licensed business operation.
- C. Photographs. Each individual applicant and person who will be conducting the regulated activity on behalf of the partnership or organization must submit two copies of a recent photograph of themselves approximately 1½ inches by 1½ inches, showing the head and shoulders of the person in a clear and distinguishable manner. An application is not complete until the required photograph(s) is supplied.
- D. Fees. The application must be accompanied by the required license and identification card fees specified in section 6-1-6 of this Chapter.
- E. County License Required. No person shall conduct business as a peddler, solicitor,

or transient merchant within the city limits without having first obtained the appropriate license from the county if applicable.

- F. Procedure for License Issuance or Denial. Upon receipt of the application and payment of the license fee, the city clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application.

Within ten (10) regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under Section 6-14-4 listed below, in which case the clerk must deny the request for a city peddler, solicitor or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council.

The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

6-14-4: License Ineligibility. The following shall be considered grounds for denying a license under this Chapter:

- A. The failure of the applicant to obtain and show proof of having obtained any required county license.
- B. The failure of the applicant to fully or truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of the application.
- C. The conviction of the applicant within the past five (5) years from the date of the application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to, burglary, theft, larceny, drug, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person; unless the individual can show sufficient evidence of rehabilitation as defined in Minn. Stat. § 364.03, subd. 3.
- D. The denial or revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- E. The applicant is found to have a history of poor business practices. Evidence of a history

of poor business practices shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office or other similar business or consumer rights office or agency, within the preceding 12 months, or three (3) complaints within the City within the preceding five (5) years.

- F. A person who produces documentation of identification that is torn, pasted, peeled, or otherwise damaged or altered.

6-14-5: Transient Merchant License: Transient merchants shall first obtain a transient merchant license pursuant to Section 6-14-3 of this Chapter and as set forth herein. Unless otherwise granted by the City Council, all transient merchant licenses are subject to the following:

- A. Transient merchant licenses are valid for a period of ninety (90) days.
- B. No transient merchant activities shall take place on property which is zoned for residential uses.
- C. No license shall be issued unless the application is accompanied by a written consent to the activities signed by the owner of the property upon which the transient merchant activity is to be conducted.
- D. Applications shall be accompanied by a site plan of the proposed transient merchant location and surrounding premises.

6-14-6: Peddler and Solicitor Licenses:

Peddler and solicitor license shall be issued for a period as applied for an approved according to the City Fee Schedule.

6-14-7: Standards of Conduct-Prohibited Activity.

- A. Except for those people specified in section 6-14-3(A), a person may conduct regulated activity in the city only if a valid city identification card identifying the person has been issued, is prominently displayed by attaching it to the front of the outermost clothing between the waist and neck, and has not been revoked, suspended, or impounded.
- B. A licensee must not transfer its license or identification card to another person.
- C. A person must not use a city identification card issued to someone other than that person.
- D. A city identification card must be displayed only while conducting regulated activity in the city and may not be used for other purposes or other than approved locations.

- E. A person conducting regulated activity must not go onto private property for that purpose when there are signs prominently posted indicating that trespassing, solicitation, or peddling are unwelcome or prohibited.
- F. A person must not be on a street, highway, or adjacent boulevard and direct regulated activity toward the occupants of any motor vehicle in transit and must not obstruct the free flow of vehicular or pedestrian traffic on any public street, sidewalk, or other public right-of-way.
- G. A person must not conduct regulated activity in a manner that creates a health or safety hazard.
- H. A person must conduct regulated activity in a reasonably courteous manner at all times, must not engage in offensive, obscene, or abusive language, must not push open a door not opened by an occupant, must not place any portion of the person's body through an opened doorway without the invitation of an occupant, and must not physically attempt to stop an occupant from closing a door.
- I. A licensee must immediately leave private property when requested to do so by an owner or occupant and must leave immediately upon completion of a transaction or an unsuccessful attempt to contact an occupant.
- J. A licensee entering onto residential property must go directly to a front door of the residence, unless there is an adult present outside of the residence or in an open garage. At no time may a licensee go to a window or to the back yard, unless invited to do so by the occupant.
- K. A person conducting regulated activity must not make untrue statements to the people contacted regarding the purpose of the contact, orders placed by the neighbors, or the goods and services offered.
- L. A licensee must not make statements to the people contacted indicating or implying that the city identification card constitutes an endorsement of their activities or products by the city.
- M. No person may call attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- N. No person under this ordinance shall conduct business before 8:00 A.M or after 8:00 P.M. No person shall conduct business to residential homes before 10:00 A.M. or after 7:00 P.M.

6-14-8: Suspension-Revocation.

A. Generally. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

1. Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
2. Fraud, misrepresentation or false statements made during the course of the licensed activity.
3. Subsequent conviction of any offense to which the granting of the license could have been denied under Section 6-14-4.
4. Engaging in any prohibited activity as provided under Section 6-14-7 of this ordinance.
5. Violation of any other provision of this ordinance.

B. Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler, solicitor or transient merchant on behalf of the licensee whose license is suspended or revoked.

C. Notice. Prior to revoking or suspending any license issued under this chapter, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

D. Public Hearing. Upon receiving the notice provided in part (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

E. Emergency. If, in the discretion of the City Council, imminent harm to the health or safety

of the public may occur because of the actions of a peddler, solicitor or transient merchant licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this section.

F. Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

6-14-9: Exclusion by Placard.

A. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

1. At least four inches long.
2. At least four inches wide.
3. With print of at least 48 point in size.
4. Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

6-14-10: Penalty-Enforcement.

A. A violation of a provision of this section is subject to the penalties established in Section 6-1-1 of this Chapter.

B. The City Clerk, the Chief of Police, and their designees are authorized to enforce this ordinance. They may impound an identification card, and license, when a person has been found violating a provision of this section, when cause exists for suspending or revoking the identification card, or license, or when the identification card or license has been suspended or revoked. When impounding a card or license, the official must send a notice to the licensee and the subject of the card at the address on the application form, giving the parties ten (10) days to submit a written request for a hearing before the city council. Failure to timely request an appeal, constitutes a waiver of that appeal and results in an automatic suspension of the license or card for three years.

6-14-11: Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

RESOLUTION 2021-18

**A RESOLUTION AUTHORIZING THE SUMMARY PUBLICATION OF
ORDINANCE 273, SECOND SERIES INSERTING CHAPTER 6-14 OF THE CITY
CODE REGARDING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS
FOR THE CITY OF ST. FRANCIS**

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Ordinance 273 Second Series will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED that the following summary of Ordinance 273, Second Series is approved for publication:

CITY OF ST. FRANCIS, MINNESOTA
ORDINANCE 273, SECOND SERIES

Section 1. The St. Francis City Code is hereby amended to include the following ordinance summarized below:

St. Francis City Code is hereby inserting Chapter 6-14 Peddlers, Solicitors and Transient Merchants

Section 2. The full ordinance will be in effect 30 days from this summary publication.

Section 3. The full ordinance is available for review during regular office hours in the office of the City Clerk.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS THIS 3rd DAY OF MAY, 2021.

APPROVED:

Attest:

Steven D. Feldman, Mayor

Joe Kohlmann, City Administrator



City Council
AGENDA REPORT
Agenda Item #
9D

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Update – Chapter 6 Business Regulations and Licensing,
Section 14 Storage Units/Self Storage – Second Reading
DATE: May 3, 2021

OVERVIEW

With the update of the Zoning Code, it was identified that the regulations of Storage Units and Self-storage should be placed in Chapter 10 Zoning instead of Chapter 6 Business regulations as they addressed the site approved and not the business management. With that it completely removes the Storage ordinance from Chapter 6.

ITEMS TO BE DISCUSSED:

Council to review and approve the removal of this ordinance through the 2nd reading of Ordinance 274 SS Chapter 6 Business Regulation and Licensing, Section 14 Storage Units/Self-Storage removal.

TIMELINE:

Council agreed with the deletion of this ordinance and the following timeline applies:

April 19 – 1st Reading
May 3rd – 2nd Reading
May 7th – Publish for Comment
June 7th - Effective

ATTACHMENTS:

- Draft of Chapter 6 Business Regulation and Licensing, Section 14 Storage Units/Self-Storage
- Resolution 2021 – 19 Summary Publication Ordinance Update Storage Units/Self Storage

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

ORDINANCE 274, SECOND SERIES

AN ORDINANCE AMENDING CHAPTER 6, SECTION 14 “STORAGE UNITS/SELF
STORAGE”

THE CITY OF ST. FRANCIS ORDAINS:

Section 1. Code Amended. That Chapter 6, Section 14 shall hereby be amended to read as follows:

“Exhibit A”.

Section 2. Effective Date. This Ordinance shall take effect thirty days after publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS
THIS 3rd OF MAY, 2021.

APPROVED:

Steven D. Feldman
Mayor of St. Francis

ATTEST:

Jenni Wida
Deputy City Clerk

(seal)

SECTION 14.—STORAGE UNITS/SELF STORAGE^[3]

Footnotes:

~~---(3)---~~

Editor's note— Prior to the reenactment of Ch. 6, § 14 by Ord. No. 251, SS, § 1, adopted Aug. 19, 2019, Ord. 249, SS, adopted Aug. 19, 2019, repealed the former Ch. 6, § 14. The former Ch. 6, § 14 pertained to peddlers, solicitors, and transient merchants and derived from Ord. 236, SS, § 2, adopted Jan. 2, 2018.

~~6-14-1. [Purpose.]~~

This section identifies the requirements for storage spaces known as storage units, self-storage, self-serve storage and mini storage. These are pertaining to a warehouse or other facility that rents units to a tenant, usually on a short-term basis, often month to month, including storing of personal possessions. Permitting identified in Zoning District.

~~(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)~~

~~6-14-2. Definitions.~~

A. **Open Storage.** Open space storage is space allowed for the temporary storage of boats, trailers and vehicles and shall be part of a storage facility. Open storage as a stand-alone use will not qualify as a storage facility.

B. **Self-Storage, Mini-Storage Facility.** Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. A self-service storage facility is not a warehouse.

~~(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)~~

~~6-14-3. Architectural design requirements.~~

A.— No single building shall be greater than one hundred fifty (150) feet in length.

B.— No entrance doors to storage compartments shall front on any public street.

C.— Exterior surfaces of all building shall meet building type and construction standards of the zoning code and overall use as identified in city code.

D.— No wall adjacent to or visible from a public street or abutting property shall exceed one hundred (100) feet in length without visual relief by means of a vertical reveal at least one foot in depth and ten feet in width, a perceptible change in wall angle or a corner.

~~(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)~~

~~6-14-4. Site and setback requirements.~~

A.— At least twenty-five (25) percent of the site is open green space and landscaped in accordance with a plan approved by the City Council.

B.— Open space storage is prohibited.

- C.— Runoff quantity and quality. Site must meet the requirements of the city code and city's comprehensive surface water management plan for storm water management, erosion control and wetlands.
- D.— Landscaping shall be provided continuously along all public street frontages, except for authorized access points. Landscaping shall be provided along all property lines abutting developed property, except where exempted for good cause by the issuing authority. Landscaping shall consist of a variety of trees, low, medium and high-profile shrubs, together with suitable ground cover such as sod, native grasses, rock or a combination thereof. Landscaping shall be designed, placed and maintained in such a manner as to not impair vehicle visibility at corner intersections or adjacent to points of ingress or egress. A landscape plan shall be submitted for approval by the issuing authority.

(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)

~~6-14-5.— Life safety requirements.~~

- A.— A security fence or wall shall be provided around the facility as approved by the issuing authority.
- B.— Driveways shall be designed so that fire equipment and other emergency vehicles can readily access and exit all areas of the site.
- C.— No electrical service shall be provided for tenants.
- D.— Exterior lighting is required. Dark sky lighting is recommended.
- E.— Fire hydrants shall be provided within the site at locations required by the Fire Department. Fire hydrants shall be separated by distances of not more than two hundred (200) feet.
- F.— Lease agreement between the operator and each lessee; no flammable, caustic, explosive, poisonous, radioactive or otherwise dangerous materials shall be stored in any self-storage facility.

(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)

~~6-14-6.— Operational requirements.~~

- A.— All owners and managers shall be responsible for maintaining the operation of the facility in conformance with ordinance requirements and conditions of approval of the City Council.
- B.— Any on-site manager of the facility shall maintain a copy of the site plan of the facility which has been approved by the issuing authority, a copy of all conditions of approval attached by the City Council, and a copy of all applicable city regulations.
- C.— The lessor or agent of the lessor shall obtain a signed lease agreement from the lessee that shall be kept in the on-site office of the facility and shall be available for inspection by the Police Department.
- D.— Each lease agreement shall include all appropriate restrictions established by ordinance and/or condition of approval established by the City Council. Each lessee shall be required to sign each lease agreement indicating understanding and acceptance of all restrictions.

(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)

~~6-14-7.— Driveway and circulation.~~

- A.— No building shall be located closer than twenty-five (25) feet to each other to allow for parking, loading, and driveway and fire lanes.
- B.— All driveways and parking areas shall have a paved surface with bituminous, concrete pavement, concrete pavers or other similar materials and allow for adequate turning radius for fire truck maneuverability and to be maintained throughout the site.

- C. ~~Designated snow storage space is to be provided to ensure adequate and safe access during winter months.~~
- D. ~~All driveways and circulation lanes which do not directly abut a building shall be defined by poured-in-place concrete curbs.~~

~~(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)~~

~~6-14-8. Exceptions to zoning district requirements.~~

- A. ~~The total floor area of all separate self-storage structures on the site may be combined to meet the minimum building floor area requirements of the district in which the use is proposed.~~
- B. ~~When located in the I-1 Light Industrial Zoning District, as part of a planned unit development pursuant self-storage facilities (including all buildings, driveways, resident manager's quarters, screening walls, and all other associated features) shall not:~~
 - 1. ~~Be located within five hundred (500) feet of a roadway designated as a principal arterial, intermediate arterial or minor arterial street; and~~
 - 2. ~~Include more than one-half of the land area of the total planned development except when located in the interior of an industrial area.~~

~~C. Setbacks~~

- 1. ~~Side yard setbacks of not less than one-half of the normal district requirements may be requested provided that no entrance doors to storage compartments or storage compartment areas are exposed to that yard, subject to the approval of final site plans and building plans.~~
- 2. ~~Rear yard setbacks of not less than ten feet may be requested provided that no entrance doors to storage compartments or storage compartment areas are exposed to that yard, subject to the approval of final site plans and building plans.~~
- 3. ~~When side and rear yards are adjacent to public streets, setbacks of not less one-half of the normal district requirements may be requested subject to the approval of the City Council.~~
- 4. ~~When reviewing plans which show reduced side and/or rear yard setbacks from the interior lot lines or abutting streets, the issuing authority shall consider the impact of such reduced setbacks on visibility and aesthetics on adjacent existing uses. Where the Council finds that the impact of the proposed self-storage facility on adjacent properties will not be adverse, the Council may allow reduced setbacks.~~

~~(Ord. 251, SS, § 1 (Exh. A), 8-19-2019)~~

CITY OF ST. FRANCIS
ST. FRANCIS, MN
ANOKA COUNTY

RESOLUTION 2021-19

A RESOLUTION AUTHORIZING THE SUMMARY PUBLICATION OF
ORDINANCE 274, SECOND SERIES REMOVING CHAPTER 6-14 OF THE CITY
CODE REGARDING STORAGE UNITS/SELF STORAGE FOR THE CITY OF ST.
FRANCIS

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Ordinance 274 Second Series will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED that the following summary of Ordinance 274, Second Series is approved for publication:

CITY OF ST. FRANCIS, MINNESOTA
ORDINANCE 274, SECOND SERIES

Section 1. The St. Francis City Code is hereby amended to include the following ordinance summarized below:

St. Francis City Code is hereby removing Chapter 6-14 Storage Units/Self-storage

Section 2. The full ordinance will be in effect 30 days from this summary publication.

Section 3. The full ordinance is available for review during regular office hours in the office of the City Clerk.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF ST. FRANCIS THIS 3rd DAY OF MAY, 2021.

APPROVED:

Attest:

Steven D. Feldman, Mayor

Joe Kohlmann, City Administrator

MEMORANDUM

To: Honorable Mayor and City Councilmembers
Joe Kohlmann, City Administrator

From: Scott Lepak and David Schaps, City Attorney's Office

Re: Residential Picketing Ordinance

Date: 4/13/21

BACKGROUND

Cities throughout Minnesota are increasingly considering and adopting ordinances directed at "residential picketing". This issue has gained attention and interest based on the experience of cities who do not have residential picketing regulation where the result has been disturbance and distress to the occupants of private residences.

REVIEW OF ISSUES

Residential picketing ordinances must be narrowly drafted to avoid unconstitutionally limiting individuals' first amendment freedoms. The First Amendment of the U.S. Constitution provides that "Congress shall make no law ... abridging the freedom of speech..." While this right is broad, it is not without limitations. Unprotected speech includes words aimed at inciting violence, or "fighting words, actual threats of violence and obscenity.

It is also permissible for cities to provide reasonable restrictions on the time, place, or manner of protected speech. The time, place and manner restrictions must be narrowly drafted so that they:

- ☐ Do not consider the content of the speech.
- ☐ Are crafted narrowly, only to serve an important governmental interest; and
- ☐ Leave open other ways for someone to communicate the information.

EXPERIENCE | TRUST | RESULTS

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James H. Wills

Given the interest in these types of ordinances, the League of MN Cities has put together an informational memo regarding “First Amendment concepts for Protests in Cities”. A copy of this memo is attached. It provides a good overview of the subject.

The targeted picketing ordinance attached is drafted as a “time, place and manner” regulation of protected speech. It does not consider the content of the speech. The proposed ordinance is narrowly drafted to restrict residential picketing from occurring at residences in order to advance the important governmental interest in allowing members of the community to enjoy, in their homes and dwellings, a feeling of wellbeing, tranquility and privacy. Individuals will still have the ability to communicate information in other ways.

This proposed ordinance is based on language in residential picketing ordinances found or proposed in Champlin, Becker, Lino Lakes, Medina, Oak Grove and Rosemount.

Recommendation

Consider adopting Ordinance 275 Second Series, an ordinance amending Chapter 8 of the City Code, by adding a new Section 8-13 entitled Regulating Targeted Picketing in Residential Neighborhoods, as attached to the Request for Council Action.

ORDINANCE 275

SECOND SERIES

**CITY OF ST. FRANCIS
COUNTY OF ANOKA
STATE OF MINNESOTA**

**AN ORDINANCE AMENDING CHAPTER 8, BY ADDING A NEW SECTION 13
THERETO, REGULATING TARGETED PICKETING IN RESIDENTIAL
NEIGHBORHOODS IN THE CITY OF ST. FRANCIS**

THE CITY COUNCIL OF THE CITY OF ST. FRANCIS, ORDAINS AS FOLLOWS:

WHEREAS, the City Council finds that targeted residential picketing in front of or about a residential dwelling causes emotional distress to the dwelling occupants, obstructs and interferes with the free use of public rights-of-way and has as its object the harassment of the dwelling occupants; and,

WHEREAS, the City Council further finds that, without resorting to targeted residential picketing, ample opportunities exist for those otherwise engaged in targeted residential picketing to exercise constitutionally protected freedom of speech and expression; and,

WHEREAS, the protection and preservation of the home is the keystone of democratic government; the public health and welfare and the good order of the community require that members of the community enjoy, in their homes and dwellings, a feeling of wellbeing, tranquility and privacy and, when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; the practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the occupants, obstructs and interferes with the free use of public sidewalks and public ways of travel; such practice has as its object the harassing of such occupants and, without resort to such practice, full opportunity exists, and under the terms and provisions of this section, will continue to exist for the exercise of freedom of speech and their constitutional rights; and that the provisions hereinafter enacted are necessary for the public interest to avoid the detrimental results herein set forth.

8-13-1

A. Definitions. For the purpose of this ordinance, “targeted residential picketing” means an activity, including but not limited to marching, standing or patrolling, that is conducted on or in close proximity to, and is focused on, a single residential dwelling without the consent of the dwelling’s occupant(s).

B. Prohibited Activity. No person shall engage in targeted residential picketing within the City.

C. Violation/Penalty. Every person convicted of a violation of any provision of this Ordinance shall be guilty of a misdemeanor.

D. Severability. Should any section, subdivision, clause, or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

E. Effective Date. This ordinance shall become effective upon its passage and publication in accordance with applicable law.

Passed and adopted by the City Council of the St. Francis this 3rd day of May 2021.

Mayor Steve Feldman

Attest:

Jenni Wida , [Deputy] City Clerk



City Council
AGENDA REPORT
Agenda Item #
9F

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Update – Chapter 8 – Section 3 Dog Licensing and Regulations
DATE: May 3, 2021

OVERVIEW

With the update of the Zoning Code, it was identified that the Dog Licensing section of code also addressed a difference with Chapter 10 Zoning and Chapter 6 Kennel licensing. To clean this up and attempt to make all codes and ordinances match when it comes to Dogs staff is proposing the following updates to Chapter 8.

ITEMS TO BE DISCUSSED:

Council to review and approve 1st reading of Ordinance 276 SS Chapter 8, Section 3 Dog Licensing and Regulations.

TIMELINE:

If Council agrees the following timeline will apply:

May 3rd – 1st Reading

May 17th – 2nd Reading

May 21st – Publish for Comment

June 21st - Effective

ATTACHMENTS:

Draft Chapter 8 Section 3 Dog Licensing and Regulations

8-3-1. - Dog Licensing and Regulation.

A. *Definition.* For the purpose of this Section:

1. **Owner** means the license holder or any other person or persons, firm, association, or organization or corporation owning, keeping, possessing, having an interest in, having care custody or control of or harboring a dog. Any person keeping or harboring a dog for five (5) consecutive days shall for the purposes of this Section be deemed an owner thereof.
2. **Own** means to have a property interest in, or to, harbor, feed, board, keep or possess.
3. **Dangerous Animal** means a dog which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.
 - a. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
 - b. Killed a domestic animal without provocation while off the owner's property; or
 - c. Been found to be a potentially dangerous, and after the owner was noticed that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.
4. **Dog** means both male and female and includes any animal of the dog kind.
5. **Potentially Dangerous Dog** shall mean any dog that:
 - a. When unprovoked, inflicts bites on a human or domestic animal on public or private property;
 - b. When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or,
 - c. Has a known propensity, tendency or disposition to attack unprovoked, causing injury, or otherwise threatening the safety of humans or domestic animals.
6. **Proper Enclosure** shall mean securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage or other structure that would allow the dog to exit of its own violation, or any house or structure in which windows are open or in which doors or window screens are the only obstacles that prevent the dog from exiting.
7. **Substantial Bodily Harm** shall mean bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

B. *Running at Large Prohibited.* It is unlawful for the owner of any dog to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner if off the property of its owner and not under restraint. For the purposes of this Section, "under restraint" means the animal is controlled by a leash not exceeding six (6) feet in length, or at heel beside a person of suitable age and discretion, and obedient to that person's commands, or effectively confined within a motor vehicle, building or enclosure. A dog shall not be deemed to be running at large if engaged in wild game or animal hunting, or when engaged in obedience training, and under the control of its owner or a responsible person.

C. *License Required and Number of Dogs Restricted.*

1. **Licenses.** It is unlawful for the owner of any dog, six (6) months of age or more, to fail to obtain a license therefore from the City. All dogs kept, harbored, or maintained in the City of St. Francis shall be licensed and registered. Applications for licenses shall be made to the Police Department upon forms provided by the Police Department. Said application shall require the owner, among the other information required by the Police Department, to supply the name, age, predominant breed, sex, color and markings of each dog sought to be licensed. In addition, when the applicant

or owner has been convicted of a violation to Section 8-3-1.L of this Code relative to the dog sought to be licensed, the application shall require proof of public liability insurance as set forth in Section 8-3-1.S of this Code. Upon submission of the application and a certificate of evidencing compliance with the terms and provisions of the license fee, the Police Department shall issue a license, which license shall be effective until the next 31st day of December of the following year.

2. Number of Dogs Allowed.
 - a. Three dogs over the age of three (3) months on properties less than 5 acres
 - b. Four dogs over the age of three (3) months on properties 5 acres or greater
 - c. Properties located within the Urban Service Area of the City shall be limited to a maximum of two dogs housed outside of the principle structure.
 - c. Additional dogs with an approved Kennel License in accordance with standards in Chapter 6 and Chapter 10
- D. *License Issuance, Term and Renewal.* Every owner or keeper of a dog shall cause the same to be vaccinated by a licensed veterinarian with anti-rabies vaccine at least once in every twenty-four (24) month period prior to the time such dog shall reach the age of six (6) months and at least once every twenty-four (24) months thereafter.
- E. *Adoption of Fees.* All fees for the impounding and maintenance of a dog, including penalties for the late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by Resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk/Treasurer and open to investigation during regular business hours.
- G. *Dog Pound.* Any dog found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Dog Pound, and an accurate record of the time of such placement shall be kept on each dog. Every dog so placed in the Dog Pound shall be held for redemption under Section 8-3-1.I of this Code by the owner for at least five (5) regular business days. A "regular business day" is one during which the pound is open for business to the public for at least four (4) hours between 8:00 AM and 7:00 PM. Impoundment records shall be preserved for at least six (6) months and shall show: (1) the description of the dog by specie, breed, sex, approximate age, and other distinguishing traits; (2) the location at which the dog was seized; (3) the date of seizure; (4) the name and address of the person from whom any dog three (3) months of age or over was received; and (5) the name and address of the person to whom any dog three months of age or over was transferred. If unclaimed, such dog shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the dog, or a statement by the dog's owner after seizure specifies that the dog should not be used for research, such dog shall not be made available to any such institution but may be destroyed after the expiration of the five (5) day period.
- H. *Notice of Impounding.* Upon the impounding of any dog, the owner shall be notified by the most expedient means or if the owner is unknown, written notice shall be posted for five (5) days at the City Hall describing the dog and place and time of taking.
- I. *Redemption of Dog Release from Dog Pound.* Dogs shall be released to their owners, as follows:
 1. If such dog is owned by a resident of the City, after a license is obtained, if unlicensed, and payment of the impounding fee, maintenance, and immunization fee and proof of ownership.
 2. If such dog is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the immunization fee, impounding fee and maintenance.
- J. *Seizure by a Citizen.* It is lawful for any person to seize and impound a dog so found running at large and shall within six (6) hours thereafter notify the Police Department of said seizure. It shall be the duty of the Police Department to place said dog in the City Pound. If the name of the owner of such

dog so seized is known to the person who first takes such dog into custody, he or she shall inform the Police Department of the name of the owner, and the address if known.

- K. *Immobilization of Dogs.* For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog.
- L. *Disturbing the Peace/Other Unlawful Acts.* It is unlawful for the owner of any dog to:
 - 1. Fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed dog; or,
 - 2. Own a dangerous dog, or
 - 3. Interfere with any police officer, or other City employee, in the performance of their duty to enforce this Section; or
 - 4. Own, keep, have in possession, or harbor any an animal that causes annoyance or disturbance to persons or the neighborhood by yapping, wailing, barking, howling, or crying for a continuous period of 30 minutes or longer. Such yapping, wailing, barking, howling, or crying must also be audible off of the owner's or caretaker's premises. Any person violating this subdivision, who upon first requested by a police officer or the animal control officer to stop or prevent the annoyance, and refuses to comply with the request maybe issued a citation or arrested in accordance with Minnesota Rules of Criminal Procedure.
- M. *Rabies Control—Generally.*
 - 1. Every Animal which bites a person shall be promptly reported to the Chief of Police and shall thereupon be securely quarantined at the direction of the Chief of Police for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the Chief of Police, such quarantine may be on the premises of the owner or at the veterinary hospital of their choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time of study and observation of rabies symptoms. In the case of the stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the Chief of Police the animal may be confined in a veterinary hospital designated by him. The owner of the animal shall be responsible for all costs associated with the quarantine of the animal.
 - 2. The owners, upon demand made by the Chief of Police or by any other City Employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.
 - 3. When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.
 - 4. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.
- N. *Reports of Bite Cases.* It is the duty of every physician, or other practitioner, to report to the Chief of Police the names and addresses or persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.
- O. *Animals in Heat.* Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female cannot come in contact with other animals.
- P. *Nuisances.* Keeping, maintaining, or harboring a dog that has been permitted to run loose or has caused damage to or loss of private property belonging to a person other than the thereof and

members of the owners household on three (3) or more occasions within a period of twelve (12) consecutive months constitutes a nuisance. The following events shall be considered in determining whether or not there has been a violation of this Section which constitutes a nuisance:

1. Conviction under Section 8.05, Subd. 2, involving the permitting of a dog to run loose.
2. Payment to a person by or on behalf of the owner for damages to or destruction of private property or for personal injury.
3. An acknowledgement by the owner or keeper of an animal that it has caused such damage or personal injury.
4. Records of the City of St. Francis or any other City which show impoundment of the dog for the immediate preceding twelve (12) month period.

- Q. *Abatement.* Such nuisance shall be abated by the owner or keeper of such animal by the disposition of the animal within fourteen (14) days after receipt of notice to the owner or keeper thereof. "Disposition" shall mean the destruction of the animal or its permanent removal from the City. Said notice shall be sent by the Chief of Police or his designate by registered mail. If the owner or keeper of the animal fails to comply within the above-specified period, the animal control office is authorized and directed to capture and immediately dispose of such animal. The owner or keeper of the dog shall immediately make the animal available to the animal control officer.
- R. *Appeals.* Any owner who feels aggrieved by the order of the Chief of Police may request a hearing before the City Council by filing an appeal with the City Clerk within fourteen (14) days after receipt of the notice. The appeal shall be filed in such form as the City shall provide. On the filing of such appeal, no further action shall be taken until the matter has been heard. Upon receipt of the request, the City Clerk shall place the matter before the Council at its next regular meeting. The owner may appear, with counsel if he/she chooses, and present evidence in opposition to the order. Following such hearing the Council shall make a determination of facts and shall, based upon such determination, affirm, repeal, or modify the Chief's order. The Council shall also establish a date for compliance with the order as affirmed or modified, which date shall be not less than five (5) days thereafter. Upon expiration of the time limit, the animal control officer shall abate the nuisance.
- S. *Insurance Required.* Evidence of a surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to the City in the sum of at least \$50,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in the amount of at least \$50,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog must be filed with the City Clerk each year upon renewal of the dog license in the following instances:
1. Nuisance Abatement. For a period of two (2) years after having been ordered to abate any nuisance pursuant to this Section.
 2. Conviction of failure to restrain an attack by a dog pursuant to this Section, where the Court failed to order destruction of the dog.
 3. Where the dog has been declared dangerous pursuant to this chapter.
- T. *Failure to Restrain an Attack by an Animal.* It shall be unlawful for an owner to fail to restrain an animal from inflicting or attempting to inflict bodily injury to any person or other domestic animal. Violation of this Section shall be a misdemeanor. The Court upon a finding of the defendant's guilt hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on written order containing one or more of the following findings of fact:
1. The animal is dangerous as defined in the Subd. 1; or,
 2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent unprovoked injury to persons or other domestic animals. If the Court does not order the destruction of the dog, the Court shall, as an alternative, order the defendant to provide, and show proof to the Court of insurance as set forth in the Subd.

- U. *Destruction of Dangerous Animals.* The Chief of Police or his designate shall have authority to order the destruction of dangerous dogs as defined in Section 8-3-1.A of this Code.
- V. *Appeals.* If an owner requests a hearing within five (5) days of the receipt of the Declaration of Dangerous Dog classification for determination as to the dangerous nature of the dog, the City Clerk shall place the matter before the City Council at its next meeting. Notice of the Declaration of Dangerous Dog classification shall be sent by certified mail or posting of such notice on owner's last known residence if the owner(s) cannot be found. The owner may appear with counsel if he/she chooses, and present evidence in opposition of the designation of the animal as dangerous. Following the hearing, the Council shall make a determination of facts and shall make such order as it deems proper. If such hearing cannot be held within the statutory fourteen (14) days, the owner must either comply with the terms of the Statute Section 347.50-347.54 or keep the dog at a licensed kennel in a confined pen until the hearing is held. If the Declaration of Dangerous Dog is upheld, the dog shall remain at a licensed kennel in a secured, confined pen until the dog is either destroyed or all of the dangerous dog requirements of the state statute and local ordinances are complied with and a license is issued by the Police Department. If the Council concludes that the dog is dangerous and the owner does not immediately comply with the requirements of the dangerous dog statute, the Council may order the animal control officer to take the dog into custody for destruction. If the dog is ordered into custody for destruction, the owner shall immediately make the dog available to the animal control officer and failure to do so shall be a misdemeanor.
- W. *Harboring a Dangerous Animal.* Any person who harbors an animal after it has been found to be dangerous and ordered into custody for destruction pursuant to this Subd. shall be guilty of a misdemeanor.
- X. *Stopping an Attack.* If any Police Officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means he/she deems appropriate to bring the attack to an end and prevent further injury to the victim.
- Y. *Removal of Excrement.* It is unlawful for any person who owns or had custody of a dog to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property unless such person immediately removed the excrement and places it in a proper receptacle. The provisions of this Section shall not apply to seeing-eye dogs under control of a blind person or dogs while being used in City Police activity.
- Z. *Animal Control Officer.* There is hereby established the position of Animal Control Officer. He/She shall be appointed by the City Council. Nothing contained herein shall prevent the City Council from contracting with a person to provide such services.
- AA. *Duties of Animal Control Officer.* The Animal Control Officer shall perform the following duties:
 - 1. Capture, seize and deliver to any designated pound any dog found: running at large within the City; unlicensed; or not wearing the metal tag provided for in this chapter.
 - 2. Pick-up and dispose of the carcasses of every dead animal.
 - 3. Investigate all cases of animal bites reported to him/her and supervise the quarantine of any such animal to assure that it is kept under observation for a period of ten (10) days.
 - 4. Investigate all reports of dangerous or potentially dangerous dogs referred to him/her, complete the dangerous/potentially dangerous animal form and refer the same to the County Auditor, report to the Chief of Police weekly on the activities of the Animal Control Officer within the City.
- BB. *No Interference with Officer.* It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any of their duly authorized assistants, or with any duly authorized agent while engaged in performing work under the provisions of this chapter.

(Ord. 17, SS, 5-3-1993; Ord. 99-43, 9-7-1999; Ord. 160, SS, 8-10-2011; Ord. [229](#), SS, 6-19-2017)



City Council
AGENDA REPORT
Agenda Item #
9G

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Update – Chapter 6 Business Regulations and Licensing,
Section 4 Tobacco
DATE: May 3, 2021

OVERVIEW

Since the original adoption of the City Tobacco ordinance, there has been changes in the laws as it relates to the age requirements of tobacco. With that, Staff also addressed other concerns within the Tobacco ordinance that were needed, such as definitions, the application process, and law changes such as the removal of possession enforcement.

This has been an joint effort with Chief Schwieger as the primary department that enforces the language within.

ITEMS TO BE DISCUSSED:

Council to review and approve the updates related to and hold the 1st reading of Ordinance 277 SS Chapter 6 Business Regulation and Licensing, Section 4 Tobacco

TIMELINE:

If Council agrees the following timeline will apply:

May 3rd – 1st Reading

May 17th – 2nd Reading

May 21st – Publish for Comment

June 21st - Effective

ATTACHMENTS:

Updates to Chapter 6 Business Regulation and Licensing, Section 4 Tobacco

SECTION 4. - TOBACCO

(Ord. 55, SS, 11-16-2009; Ord. 216, SS, 3-21-2016; Ord. xxx x-x-2021)

6-4-1. - Purpose.

Because the City recognizes that many persons under the age of 21 years purchase or otherwise obtain, possess and use tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices and such sales, possession, and use are violations of both State and Federal laws; and because studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached 21 years and that those persons who reach the age of 21 years without having started smoking are less likely to be smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect persons under the age of 21 years of age against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

6-4-2. - Definitions and interpretations.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

- A. **Tobacco or Tobacco Products** shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes, cigars, little cigars, pipe tobacco, snuff, snuff flour, fine cut or other chewing tobacco; cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; Cavendish, shorts, plug and twist tobaccos, dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking. Any products containing made, or derived from tobacco that is intended for human consumption whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, or any component, part of accessory of a tobacco product. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product or for other medical purposes, and is marketed and sold solely for such an approved purpose.
- B. **Tobacco Related Devices** Any tobacco products as well as a pipe, rolling papers, or other device intentionally designated or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products. Including components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco related devices may or may not contain tobacco.
- C. **Self-Service Merchandising** shall mean open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device electronic delivery device, or nicotine or lobelia delivery device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

- D. **Vending Machine** shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.
- E. **Individually packaged** shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this Subdivision shall not be considered individually packaged.
- F. **Loosies** The common term used to refer to a single or individual packaged cigarettes, cigars, and any other licensed products that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from a whole tobacco leaf and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture or flavor..
- G. **Retail Establishment** Any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants and cannot be located in aresidential zoning district.
- H. **Moveable Place of Business** shall refer to any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- I. **Sale** shall mean any transfer of goods for money, trade, barter, or other consideration.
- J. **Compliance Checks** shall mean the system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of persons under the age of 21 as authorized by this ordinance. Compliance checks shall also mean the use of persons under the age of 21 who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices. Violators may be subject to criminal prosecution. This shall apply to all sales and purchase violations.
- K. **Nicotine or Lobelia Delivery Devices** shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, not including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.
- L. **Electronic Delivery Device** are products containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of such a product whether or not sold separately. Electronic delivery device does not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal use in tobacco cessation treatment for other medical purposes, and is being marketed and sold solely for that approved purpose.
- M. **Child Resistant Packaging.** Packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015

- N. Cigar. Any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. 297F.01, subd.3, as it may be amended from time to time.
- O. Delivery Sale. The sale of any licensed product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery sale includes but is not limited to the sale of any licensed product when the sale is conducted by telephone, other voice transmissions, mail, the internet or app-based service. Delivery sale includes delivery by license holder or third parties by any means, including curbside pick-up.
- P. Flavored Product. Any licensed product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether expressed or implied made or disseminated by the manufacturer of a licensed product, or by any person authorized by permitted by the manufacturer to make or disseminate public statements concerning such products, that the product has or produces a taste or smell other than a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.
- Q. Imitation Tobacco Product. Any edible non-tobacco product designed to resemble a tobacco product, or any non-eligible tobacco product designed to resemble a tobacco product and intended to be used by children as a toy. Imitation tobacco product includes but is not limited to candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, and shredded beef jerky in containers resembling tobacco snuff tins. Imitation tobacco product does not include electronic delivery devices or nicotine or lobelia delivery products.
- R. Indoor Area. A space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door or other physical barrier, whether temporary or permanent.
- S. Licensed Products. The term that collectively refers to any tobacco, tobacco-related device, electronic delivery device or nicotine or lobelia delivery product.
- T. Pharmacy. A place of business in which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.
- U. Smoking. Inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, or pipe, any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.

6-4-3. - License.

No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device without first having obtained a license to do so from the City.

- A. *Application.* An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

- B. *Action*. The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.
- C. *Term*. All licenses under this ordinance shall be valid for one calendar year from the date of issue.
- D. *Revocation or Suspension*. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
- E. *Transfers*. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.
- F. *Moveable Place of Business*. No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
- G. *Display*. All licenses shall be posted and displayed in plain view of the general public of the licensed premises.
- H. *Renewals*. The renewal of a license under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license.
- I. Issuance as a privilege and not a right. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the application and shall not entitle the holder to an automatic renewal of the license.

6-4-4. – Application and Fees.

- A. Application
 - a. The application will include the appropriate information required under this ordinance and other such relevant information as the City Clerk may require
 - b. The application must be accompanied by an investigation fee and annual application fee in the amount determined by the City Fee Schedule.
 - c. Within 30 days of receipt, of the completed application, Council must approve or deny the application by written notice to the licensee. The notice must include specific reasons for any denial. Failure of the Council to act on an application within 30 days will constitute approval provided, however, that for cause the Council may extend the review for a period not to exceed an additional 30 days by providing written notice of the extension, including reasons therefore, to the licensee before the end of the initial 30-day period.
 - d. The decision of the Council may be appealed by the licensee in accordance with this ordinance
- B. Fees
 - a. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full.
 - b. The fee for a license under this ordinance shall be set by resolution by the Council.
 - c. Annual fee as identified in the adopted Fee Schedule will be required

6-4-5. - Basis for denial or license.

The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the City must deny the license. If a license is mistakenly issued or renewed to a

person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of eighteen (18) years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices.
- C. The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance or other regulation, from holding such a license.

6-4-6. - Prohibited sales.

It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device:

- A. To any person under the age of 21 years.
- B. By means of any type of vending machine,.
- C. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, electronic delivery devices, or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer.
- D. By means of loosies.
- E. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances naturally found in tobacco or added as part of an otherwise lawful manufacturing process.
- F. By any other means to any other person, or in any other manner or form prohibited by Federal, State, or local law, ordinance provision, or other regulation.
- G. It is unlawful for any licensee, or any officer, associate, member, representative, agent, or employee of such licensee, to engage, employ or permit any person under the age of eighteen (18) years of age to sell tobacco products, electronic delivery devices, or nicotine or lobelia delivery devices in any licensed premises.
- H. It shall be a violation of this ordinance to sell any liquid, whether or not such liquid contains nicotine that is intended for human consumption and use in an electronic delivery device that is not contained in packaging that is child-resistant. Upon request, a licensee shall provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.
- I. No sales shall be by means of delivery sales. All sales of licensed products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.
- J. Smoking prohibited. Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.
- K. Samples prohibited. No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of licensed products as a free donation is prohibited.

- L. Liquid packaging. No person shall sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

6-4-7. - Vending machines.

It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the means of a vending machine.

6-4-8. - Self-service sales.

It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of tobacco, tobacco products, tobacco related devices, electronic delivery devices, and nicotine or lobelia delivery devices shall either be stored behind the counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices at the time of this ordinance is adopted shall comply with this Section within 30 days following the effective date of this ordinance. This Section does not apply to stores that generate at least 90 percent of their revenues from the sale of tobacco, tobacco products, tobacco related devices, or electronic delivery devices provided that persons under the age of 21 are, at all times, prohibited from entering the stores.

6-4-9. - Responsibility.

All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

6-4-10. - Compliance checks and inspections.

All licensed premises shall be open to inspection by the City police and other authorized city officials during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by 17 years but less than 21 years of age. To enter the licensed premise to attempt to purchase tobacco, tobacco products tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by the City designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance check shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in compliance checks shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for education, research, or training purposes, or required for the enforcement of a particular State or Federal law.

6-4-11. - Other Prohibited Acts.

Unless otherwise provided, the following acts shall be a violation of this ordinance.

- A. *Illegal Sales.* It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device to any person under the age of 21.

- B. *Illegal Possession.* It shall be a violation of this ordinance for persons under 21 years of age to have in his or her possession any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to persons lawfully involved in a compliance check.
- C. *Illegal Use.* It shall be a violation of this ordinance for any person under 21 years of age to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device.
- D. *Prohibited furnishing or procurement.* It shall be a violation of this ordinance for any persons under the age of 21 to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device, and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, electronic delivery device, or nicotine or lobelia delivery device. This subdivision shall not apply to persons lawfully involved in a compliance check.
- E. *Use of False Identification.* It shall be a violation of this ordinance for any person use any form of false identification, whether the identification is that of another person or has been modified, tampered with to represent an age older than that of the actual age of the person using that identification.
- F. *Age Verification.* License holder must verify by means of a government-issued photographic identification containing the bearer's date of birth that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appears to be 30 years of age or older does not constitute a defense to a violation of this Subsection.
- G. *Signage.* Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. Sign must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

6-4-12. - Violations.

- A. *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
- B. *Hearings.* Upon issuance of a citation, a person accused of violating this Chapter may request in writing a hearing on the matter. Hearing requests must be made within 10 business days of the issuance of the citation and delivered to the City Clerk or other designated City employee. Failure to properly request a hearing within 10 business days of the citation will terminate the person's right to a hearing. The City Clerk or other designated City employee will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least 10 days prior to the hearing.
- C. *Hearing Officer.* The City Council shall serve as the hearing officer..
- D. *Decision.* If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 6-4-13 of this Code, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

- E. *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the City in which the alleged violation occurred.
- F. *Misdemeanor Prosecution.* Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek misdemeanor prosecution against an individual in violation of this ordinance, no administrative penalty shall be imposed against that individual.
- G. *Continued Violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- H. *Costs.* If the citation is upheld by the hearing officer and/or the City Council the City's actual expenses in holding the hearing must be paid by the person requesting the hearing up to a maximum of \$1,000.00 (one thousand dollars).

6-4-13. - Penalties.

- A. *Licensees.* Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$ \$300for a first violation of this ordinance; \$600.00 for a second offense at the same licensed premises within a 36 month period; and \$1,000.00 for a third or subsequent offense at the same location within a 36 month period. In addition, after the third offense, the license shall be suspended for not less than 30days.
- B. *Other Individuals.* Other individuals, other than persons under the age of 21 regulated by Subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an Administrative fee of \$50.00.
- C. . Persons under the age of 21 who unlawfully purchase or attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery devices, may be subject to criminal prosecution. .
- D. *Revocation and Suspension.* The City Council may revoke or suspend any license for cause. Before revocation or suspension, the licensee shall be provided with written notice before forth the nature of the charges against the licensee and setting a date for a hearing before the City Council, which hearing shall not be less than 10 days or more than 30 days following the date of service of such notice upon the licensee by registered mail or personal service. The licensee shall have the right to appear with counsel, and to present such evidence and make such argument as the Council may deem appropriate. The Council shall have the discretion and power to suspend the licenses pending the hearing.

6-4-14. - Exceptions and defenses.

- A. *Religious, Spiritual or Cultural Ceremonies or Practices.* Nothing in this ordinance prevents the provision of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual or cultural ceremony or practice.
- B. *Reasonable Reliance.* It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

6-4-15. - Severability and savings clause.

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



City Council
AGENDA REPORT
Agenda Item #
9H

TO: Joe Kohlmann, City Administrator

FROM: Kate Thunstrom, Community Development Director

Ordinance Update – Chapter 6 Business Regulations and Licensing,

SUBJECT: Section 9 Saunas, Massage Parlors and Similar Adult-Oriented Services
and Massage Therapist License

DATE: May 3, 2021

OVERVIEW

Since the original adoption of the City Sauna and Massage ordinance, there has been changes in the laws and social behaviors that have created a need for the City to update its ordinances. The Massage business industry has forced cities to establish higher requirements due to unethical businesses practices, prostitution and sex trafficking. Although St. Francis has not had to enforce these issues upon a business it is in good faith that Staff are working to create an ordinance to prevent the opportunity.

This ordinance also incorporates the process of Massage Therapist licenses, Chapter 6 – Section 10 into a single ordinance instead of handing a same/similar business license with a different ordinance.

This has been a joint effort with Chief Schwieger as the primary department that enforces the language within.

ITEMS TO BE DISCUSSED:

Council to review and approve the updates related to, and hold, the 1st reading of Ordinance 278SS Chapter 6 Business Regulation and Licensing, Section 9 Saunas, Massage Parlors and Similar Adult-Oriented Services and Massage Therapist License

TIMELINE:

If Council agrees the following timeline will apply:

May 3rd – 1st Reading

May 17th – 2nd Reading

May 21st – Publish for Comment

June 21st - Effective

ATTACHMENTS:

Updates to Chapter 6 Business Regulation and Licensing, Section 9 Saunas, Massage Parlors and Similar Adult-Oriented Services and Massage Therapist License

SECTION 9. - SAUNAS, MESSAGE PARLORS AND SIMILAR ADULT-ORIENTED SERVICES AND MESSAGE THERAPISTS LICENSES

Purpose.

Recent investigations and activities within massage parlors have been found to establish the existence of acts of prostitution, illicit sex and occasions of violent crimes within the operation of the massage parlors. Because of the high incidence of such activities, the City Of St. Francis deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which operate as massage parlors, saunas, adult sensitivity groups, adult encounter groups, escort services, dancing services, hostess services and similar adult oriented services operating under different names in order to protect the public health, safety and welfare and to guard against the inception and transmission of disease. Council further finds specifically that commercial enterprise such as the type of described above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or the opposite sex and employing personnel with no specialized training are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, licensing and regulation.

6-9-1. - Definitions.

As used in this Section, the following words and terms shall have the meanings stated:

- A. **Sauna** means and includes a steam bath or heat bathing room used for the purpose of bathing, relaxing, reducing, utilizing steam or hot air as cleaning, relaxation or weight reduction, utilizing steam as the agent therefore.
- B. **Sauna Parlor** means any room or rooms wherein persons may, for a fee or other consideration paid either directly or indirectly, receive a sauna.
- C. **Massage** means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands or other devices, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose. D. **Massage Parlor** means any room or rooms wherein any person for a fee may receive from another person a massage, or any room or rooms from which a masseur or masseuse is dispatched by telephone, online or otherwise, for the purpose of giving a massage, provided that no massage for a fee shall be given except in a licensed premise.
- E. **Masseur** means a male person who, for compensation, practices massage.
- F. **Masseuse** means a female person who, for compensation, practices massage.
- G. "Escort Service" or "Model Service" or "Dancing Service" or "Hostess Service" means any person, establishment, or business advertising, offering, selling, trading, or bartering the services of itself, its employees, or agents as hostesses, models, dancers, escorts, dates, or companions whether or not goods or services are simultaneously advertised, offered, sold, traded, or bartered regardless of whether said goods or services are also required to be licensed.
- H. "Similar Adult-Oriented Services" includes all other services which fall within the definitions of this Section but are operated under different names.
- I. "Certificate" means a certificate issued by the City authorizing the holder thereof to practice or administer a massage in the City of St. Francis.
- J. "Incidental Massage Services" shall mean massage activities conducted by trained masseurs and/or masseuses in conjunction with another lawful business such as a beauty salon, physical fitness center, or similar business, and which are incidental to the primary business.

- K. "Massage Therapist." A masseur or masseuse who provides incidental massage services. A part-time massage therapist is one who performs such services on a yearly average of less than 30 hours per week, Sunday through Saturday, or who works on an "on-call" basis.

6-9-2 Massage Distinguished.

The practice of massage is hereby declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and persons duly licensed in this State to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry and nurses who work solely under the direction of any such persons, athletic directors, and trainers are hereby expressly excluded from the provisions of this Chapter. Beauty culturists and barbers who do not give or hold themselves out to give massage treatments as defined herein, other than is customarily given in such shops or places of business for the purpose of beautification only, shall be exempt from the provisions of this Section.

6-9-3. License required.

- A. Business License. It shall be unlawful for any person to engage in the business of operating a sauna, massage parlor, adult encounter group, adult sensitivity group, model service, escort service, dancing service, hostess service, or any adult similar adult-oriented service, either exclusively or in connection with any other business enterprises, without being licensed as provided in this Section. Any person who conducts such business either in whole or in part by arranging for massage by means of telephonic, verbal, or written communication shall administer such massages only on a licensed premise, if such massage is to be administered within the City of St. Francis A separate license must be obtained for each place of business. Licenses are not transferable. No more than two (2) business licenses issued hereunder may be in force at any one time, provided that such limitation shall not apply to incidental massage services.
- B. Personal Service and Massage Therapist License. It shall be unlawful for any person to perform massage services within the City unless currently licensed under this Section. Licenses are not transferable.

6-9-4. - License applications.

A. Business License

Applications for business licenses provided in this Chapter shall be made to the City Clerk on such forms as the Clerk may from time to time provide. In addition to such information as the Clerk may require, the application shall also include:

1. Whether the applicant is a natural person, a corporation, a partner, or other form of organization.
2. If the applicant is a natural person:
 - a. The true name, place and date of birth, street address, and phone number of applicant.
 - b. Whether the applicant is a citizen of the United States, a resident alien, or has the legal authority to work in the United States.
 - c. Whether the applicant has ever used or has been known by a name other than his true name; and if so, what was such name or names and information concerning dates and places where used.
 - d. The name of the business if it is to be conducted under a designated name or style other than the full individual name of the applicant; in such case, a copy of the certification as required by M.S.A. Chapter 333, certified by the Clerk of the District Court, shall be attached to the application.

- e. The street addresses at which applicant has lived during the preceding five years.
 - f. The kind, name, and location of every business or occupation the applicant has been engaged in during the preceding five years.
 - g. The names and addresses of applicant's employer(s) and partner(s), if any, for the preceding five years.
 - h. Whether the applicant has ever been convicted of any crime. If so, the applicant shall furnish information as to the time, place, and offense for all applicants.
 - i. The physical description of the applicant.
 - j. Whether the applicant has any training or experience in performing massage services.
3. If the applicant is a partnership:
- a. The names and addresses of all partners and all information concerning each partner as is required of an individual applicant in subparagraph 2 above.
 - b. The name of the managing partner(s) and the interest of each partner in the business.
 - c. A true copy of the partnership agreement shall be submitted with application. If the partnership is required to file a certification as to a trade name under the provisions of M.S.A. Chapter 333, a copy of such certificate, certified by the Clerk of District Court, shall also be attached.
4. If applicant is a corporation or other organization:
- a. The name; and, if incorporated, the state of incorporation.
 - b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If a foreign corporation, a Certificate of Authority, as described in M.S.A. Chapter 303, shall also be attached.
 - c. The name of the manager or proprietor or other agent in charge of the business to be licensed and all information concerning said person(s) as is required in subparagraph 2 above.
 - d. A list of all parties who control or own an interest in excess of five percent in such corporation or organization and all information concerning said person as is required in subparagraph 2 above.
 - e. If the applicant is a nonprofit corporation, the application shall include a list of all members of such nonprofit corporation.
5. Whether the applicant is licensed in other communities to operate similar businesses; and if so, where.
6. The names of applicant's employees to be licensed and working for the applicant in the City.
7. Whether the applicant has previously been denied a massage license, or has had a license revoked. If so, give details of each.
8. The names, residences, and business addresses of those residents of the metropolitan area, of good moral character, not related to the applicant or financially interest in the premises of business, who may be referred to as to the applicant's or manager's character.
9. A description and location of the premises to be licensed. If the premises are not constructed and furnished at the time the application is filed, the detailed plans of the premises and furnishings shall be filed with the application.
10. A description of the services to be provided.
11. List of types of equipment to be used in the business.
12. Such other information as the Council may require.

B. Masseur and Masseuse License

Applications for masseur and masseuse license provided for in this Chapter shall be made to the City Clerk on such forms as the Clerk may from time to time provide. In addition to such information as the Clerk may require, the application should also include:

1. All of the information required under City Code Section 6-9-4, subparagraphs 2, 5, 7, and 8.
2. The name and address of any training institutions attended and the dates of such attendance.

6-9-5 Fees

License and investigative fees shall be established through the City Fee Schedule. Application fees must be submitted with a completed application for review.

6-9-6 Review of Applications

All applications shall be referred to the Chief of Police and such other City departments as the City Clerk shall deem necessary for verification and investigation of the facts set forth in the application. The Chief of Police and other consultants may 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.

6-9-7 Execution of Application.

All applications for licenses, whether business or masseur or masseuse license, 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 a partnership, by one of the partners; and if by an incorporated association, by the manager or managing officer thereof. Any falsification of information on the license application shall result in the denial of said license.

6-9-8 Changes in License Application Information

It shall be the continuing duty of each licensee to properly notify the City Clerk 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 of revocation or suspension of such license.

6-9-9 Renewals

An application for a renewal of a business or personal service license shall be made in the same manner as the original application. The license fees for a renewal shall be identified in the City Fee Schedule.

6-9-10. - Restrictions and regulations.

- A. Licenses shall be granted only for operation upon fixed premises which must be located the appropriate zoning district.
- B. Licenses shall be granted only upon a showing of compliance with safety and sanitary requirements of the City and building code regulations of the City of St. Francis and State of Minnesota.
- C. . It shall be grounds for rescinding a license granted to any person for business or personal service purposes under this Chapter if the owner or manager, lessee, or any of the employees are found to be in control or possession of an alcoholic beverage, unless such business is licensed for the sale of

alcoholic beverage, or a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without prescription or those for which the individual has a prescription.

D. A license for a masseuse or masseur may be denied or rescinded upon any of the following grounds:

1. Fraud or deception in the license application.
2. The applicant or licensee has a history of violations of laws and ordinances that apply to health, safety, or moral turpitude.
3. The applicant or licensee is of bad repute.
4. The applicant or licensee is convicted of an ordinance or State statute violation arising within a business establishment within the State to which a sauna and/or massage parlor license was granted.
5. The applicant or licensee has been convicted of crimes or offenses involving sexual misconduct as defined in State statutes or local ordinance.

E. A license shall not be granted to a person of bad repute or to a partnership or corporation which has in its employ or is owned by any persons of bad repute.

F. It shall be grounds for the rescinding of a license if the owner, manager, lessee, or any of the employees are convicted of any ordinance or State statute violation arising within the business establishment to which a license was granted under this Chapter.

G. An application may be denied or a license may be rescinded if the presence of such a sauna and/or massage establishment is found to be detrimental to the health, welfare, or safety of the citizens of the City of St. Francis.

H. A license may be rescinded upon evidence of a material variance in the actual plan and design of the premises from the plans submitted.

I. Each holder of a business license shall maintain with the Chief of Police a current list of all employees of such licensed premises. The list shall include masseurs and masseuses licensed hereunder. Failure to maintain such list shall be grounds for disciplinary action by the City Council, including suspension or revocation of the licenses issued under this Section

6-9-11 Construction and Maintenance of Premises.

- A. All sauna rooms, massage parlors, and all restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold, or fungus growth. The floor-to-wall and wall-to-wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch.
- B. All restrooms used in connection with saunas or massage parlors shall be provided with mechanical ventilation with three cfm per square foot of floor area, a minimum of 30 foot candles of illumination, a hand washing sink equipped with hot and cold running water under pressure, sanitary towels, and a soap dispenser.
- C. Doors on sauna rooms or massage parlor 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 being opened by any person from either side of the door with or without a key cannot be present on any doors of sauna rooms or massage parlor rooms.

6-9-12 Regulation of Masseurs and Masseuses.

- A. Any person acting as a masseur or masseuse in a sauna or massage parlor shall have his or her license displayed in a prominent place on the licensed premises
- B. All saunas and massage parlors shall be open to the general public.

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- C. Whenever a massage is given, it shall be required by the masseur or masseuse that the person who is receiving the massage shall have his or her breasts, buttocks, anus, and genitals covered with an appropriate nontransparent covering.
 - D. Any masseur or masseuse performing any massages shall at all times have his buttocks, anus, and genitals covered with a nontransparent uniform or clothing at all times. At all times during the operation of any adult encounter group, adult sensitivity group, model service, escort service, dancing service, hostess service, or similar adult-oriented service, both employees and customers must be and remain fully clothed in nontransparent clothing.

6-9-13 Persons Ineligible for a License

- A. No license shall be issued to an applicant who is under 18 years of age, is not a citizen of the United States or a resident alien, is legally prohibited from working in the United States, or has been convicted of prostitution or any other crime or violation involving moral turpitude.
- B. No license shall be issued to an applicant has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stats. § 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. Stats. § 364.03, subd. 3;
- C. No license shall be issued to an applicant who 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;
- D. No license shall be issued to an applicant is the spouse of a person whose massage-related business license has been suspended or revoked in the past five years.

6-9-14 Restrictions Involving Minors.

- A. 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, except for those businesses licensed for incidental massage services, unless accompanied by his or her parent or guardian.

6-9-15 Inspection.

- A. Any duly authorized law enforcement officer, health officer, or building inspector of the City or any other agency having jurisdiction shall be allowed to inspect the licensed premises at any times and hours in which any person is present on the licensed premises to ensure compliance with all provisions of this Chapter.
- B. Any duly authorized City employee or representative shall be allowed to inspect the books and records of any licensee during regular business hours to ensure compliance with the provisions of this Chapter.

6-10-16 Business Hours.

No customers or patrons shall be allowed to enter a business licensed under this chapter after 10:00 p.m. and before 8:00 a.m. daily. No customers or patrons shall be allowed to remain upon the licensed business after 10:30 p.m. and before 8:00 a.m. daily. Incidental massage services shall be confined to the hours of 8:00 a.m. to 10:00 p.m. daily.

6-10-17 Exceptions

A license is not required under this Chapter as follows:

- A. This Section shall not apply to a health care facility (1) owned by a municipal corporation organized under the laws of the State of Minnesota, or (2) owned by the State of Minnesota or any of its agencies, or (3) licensed by the State of Minnesota
- B. For premises on which saunas, but not massages, are provided incidental to the use of exercise and recreational equipment and facilities situated on the same premises; provided that the sauna facilities shall occupy floor area equivalent to not more than 10 percent of the floor area used for the exercise and recreational equipment and facilities.
- C. For hotels, motels, rooming houses, and apartment buildings in which saunas but not massages are provided incidental to the rental of rooms and the use of which is limited to tenants of the respective facilities.
- D. For premises at which massage parlors or sauna facilities are provided by a nonprofit corporation or association; provided, however, that such corporation or association is duly organized under the laws of the State of Minnesota for civic, fraternal, social, or business purposes which organization shall have more than 50 members and which shall for more than two (2) years prior to application have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly in a compensation by way of profit from the services offered by the organization to the members or their guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

6-10-18 Violations and Penalties.

Every person who commits or attempts to commit, conspire to commit, or aids or abets in the commission of, any act constituting a violation of this Section, whether individually or in conjunction with one or more other persons or as principal, agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any of the provisions of this Section is likewise guilty of a misdemeanor. Each violation of this Section shall constitute a separate offense. Conviction of a violation of this Section shall be grounds for revocation of any licenses issued hereunder.

6-9-8. - Resident manager or agent.

Before a license is issued under this Section to an individual who is a non-resident of the State, to more than one individual whether or not they are residents of the State, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the State as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (1) take full responsibility for the conduct of the licensed premises, and (2) serve as agent for service of notices and other process relating to the license. Such manager or agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such manager or agent ceased to be a resident of the State or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

6-9-9. - Nudity or obscenity prohibited.

A. *Definitions.* As used in this Section, the following words and terms shall have the meanings stated:

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1. **Nudity** means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
 2. **Obscene performance** means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
 3. **Obscenities** means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
 4. **Sado-masochistic abuse** means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 5. **Sexual conduct** means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
 6. **Sexual excitement** means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.
- B. **Unlawful Act.** It is unlawful for any person issued a license provided for in this Section to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron or other person.

(Ord. 7, SS, 6-3-1991, Ord xx, SS x-x-2021)



City Council
AGENDA REPORT
Agenda Item #
9I

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Deletion of Chapter 6 Business Regulations and Licensing,
Section 10 Massage Therapist License
DATE: May 3, 2021

OVERVIEW

With the update of the Saunas and Massage Parlors, Staff and Legal were able to incorporate the language of Massage Therapists into the Amended Chapter 6, Section 9 Saunas, Massage Parlors and Similar Adult Oriented Services and Massage Therapists Licenses. This is an opportunity to consolidate the ordinances, align with other cities and continue to regulation to prevent unwanted issues in the industry. With this update it will completely delete Section 10 and combine all related issues into one ordinance.

ITEMS TO BE DISCUSSED:

Council to review and approve the 1st reading of Ordinance 279SS deleting Chapter 6 Business Regulation and Licensing, Section 10 Massage Therapist.

TIMELINE:

If Council agrees the following timeline will apply:

May 3rd – 1st Reading

May 17th – 2nd Reading

May 21st – Publish for Comment

June 21st - Effective

ATTACHMENTS:

Amended Chapter 6 Business Regulation and Licensing, Section 10 Massage Therapist License

SECTION 10. - ~~MASSAGE THERAPIST LICENSE~~

~~6-10-1.—Definitions.~~

As used in this Section, the following words and terms shall have the meanings stated:

A.—~~**Massage therapy**~~ means the practice of rubbing, stroking, kneading, tamping, or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, licensed nurse, physical therapist, athletic director and trainer, or beautician and barber who confine their treatments to the scalp, face and neck.

B.—~~**Massage therapist**~~ means a person who, for compensation, practices massage.

~~6-10-2.—License required.~~

It is unlawful for any person to practice massage therapy without a license therefore from the City.

~~6-10-3.—Licensing requirements.~~

A.—~~*License Application.*~~ All applications for a license to practice as a massage therapist shall be accompanied by a medical certificate from a physician duly licensed to practice medicine in the State of Minnesota stating that the applicant has no communicable disease. All initial applications shall be accompanied by a non-returnable investigation fee. All initial applications shall also be accompanied by front and side view photographs. Applications shall contain such other information as the Council may, from time to time, require. All applicants shall be at least eighteen (18) years of age.

~~B.—Educational Requirements.~~

1.—Each applicant for a massage therapist license shall furnish the application proof of the following:

a.—A diploma or certificate of graduation from a school approved by the American Massage Therapist Association or similar reputable massage association; or,

b.—A diploma or certificate, of graduation from a school which is either accredited by a recognized education accrediting association or agency, or is licensed by the State or local government agency having jurisdiction over the school.

2.—Each applicant shall also furnish proof at the time of application of a minimum of 100 hours successfully completed course work in the following areas:

a.—The theory and practice of massage, including, but not limited to, Swedish, Esalen, Shiatsu, and or Foot Reflexology techniques; and,

b.—Anatomy, including, but not limited to, skeletal and muscular structure and organ placement; and,

c.—Hygiene.

~~6-10-4.—Restrictions and regulations.~~

~~A.—Whenever a massage is given it shall be required by the massage therapist that the person who is receiving the massage shall have his/her buttocks, anus and genitals covered with an appropriate non-transparent covering.~~

~~B.—Any massage therapists performing any massages shall at all times have their anus, buttocks, breasts and genitals covered with a non-transparent material.~~

~~C.—All massage therapist licenses shall comply with any and all amendments to this Section. Failure to do so shall be grounds for revocation of any license.~~

~~{Ord. 54, SS, 7-20-1998}~~



City Council
AGENDA REPORT
Agenda Item #
9J

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Ordinance Update – Chapter 6 Business Regulations and Licensing,
Section 11 Adult Entertainment
DATE: May 3, 2021

OVERVIEW

With the update of the Zoning Code, it was identified that adult entertainment ordinances needed housekeeping and clarification. Codes related to adult entertainment were overlapped and not clear as they were stated in two separate chapters also creating a situation that may create an unclear expectation of those types of businesses. Code updates identify the difference between the Licensing requirements and the Zoning requirements. As such, the zoning sections were moved to Chapter 10 Zoning with the recent updates. What remains in the update are the code sections related to the licensing.

ITEMS TO BE DISCUSSED:

Council to review and approve the updates to and hold the 1st reading of Ordinance 280SS Chapter 6 Business Regulation and Licensing, Section 11 Adult Entertainment

TIMELINE:

If Council agrees the following timeline will apply:

May 3rd – 1st Reading

May 17th – 2nd Reading

May 21st – Publish for Comment

June 21st - Effective

ATTACHMENTS:

Amendments to Chapter 6 Business Regulation and Licensing, Section 11 Adult Entertainment

SECTION 11. - ADULT ENTERTAINMENT

(Ord. 14, SS, 5-4-1992, Ord xx SS x-x-2021)

~~6-11-1. Purpose and intent.~~

~~It is the purpose of this Ordinance to regulate Adult Entertainment Uses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:~~

- ~~A. Prevent additional criminal activity within the City;~~
- ~~B. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;~~
- ~~C. To locate Sexually Oriented Business away from residential areas, schools, churches, and parks and playgrounds;~~
- ~~D. Prevent Concentration of Adult Entertainment Uses within certain areas of the City.~~

~~6-11-2. First Amendment rights.~~

~~The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.~~

~~6-11-3. Definitions.~~

~~As used in this Section, the following words and terms shall have the meaning stated:~~

- ~~A. **Adult Body Painting Studio** means an establishment or business which provides the service of applying of paint or other substance whether transparent or non-transparent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".~~
- ~~B. **Adult Bookstore** means a business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, if such shop is not open to the public generally but only one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities", or "specified anatomical areas".~~
- ~~C. **Adult Cabaret** means an establishment which provides dancing or other live entertainment, if such establishment excludes minors by reason of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of "specified sexual activities" or "specified anatomical areas".~~
- ~~D. **Adult Companionship Establishment** means an establishment which excludes minors be reason of age, or which provides the service of engaging or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".~~
- ~~E. **Adult Entertainment Use** means Adult Bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments.~~

F.— **Adult Establishment** means a business engaged in any of the following activities which utilizes any of the following business procedures or practices:

- 1.— Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there either by law or by the operators of such business; or
- 2.— Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas".

Specifically included in the terms, but without limitation are adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

G.— **Adult Hotel or Motel** means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

H.— **Adult Massage Parlor, Health Club** means an establishment which restricts minors by reason of age and which provides the services of a massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

I.— **Adult Mini-Motion Picture Theatre** means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by reason of age or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

J.— **Adult Modeling Studio** means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

K.— **Adult Motion Picture Arcade** means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrical, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

L.— **Adult Motion Picture Theatres** means a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by reason of age or if said material is distinguished or characterized by emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

M.— **Adult Novelty Business** means a business which has a principal activity relating to the sale of devices which simulate human genitals or devices which are designated for sexual stimulation.

N.— **Adult Sauna** means a sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

O.—~~**Adult Uses—Accessory**~~ means a use, business, or establishment having 10% or less of its stock in trade or floor area located to, or 20% or less of its gross receipts derived from movie rentals, magazine sales, or sales of other merchandise, in which there is an emphasis on "specified sexual activities" or "specified anatomical areas".

P.—~~**Church**~~ means a building or structure, or group of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and associated accessory uses.

Q.—~~**School**~~ means a public school as defined in Minnesota Statutes 120.05 or a non-public school or a non-sectarian non-public school as defined in Minnesota Statutes 123.932.

R.—~~**Specified Anatomical Areas**~~ means the following:

- 1.—~~Less than completely or opaquely covered human genitals, pubic region, buttock(s), anus, or female breast(s) below a point immediately above the top of the areola; and~~
- 2.—~~Human male genitals in a discernible turgid state, even if completely and opaquely covered.~~

S.—~~**Specified Sexual Activities**~~ means the following:

- 1.—~~Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoocerasty; or~~
- 2.—~~Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or~~
- 3.—~~Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or~~
- 4.—~~Fondling or touching of nude human genitals, pubic region, buttock(s), or female breast(s); or~~
- 5.—~~Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or~~
- 6.—~~Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or~~
- 7.—~~Human excretion, urination, menstruation, vaginal or anal irrigation.~~

T.—~~**Youth Facility**~~ means a playground, park, public swimming pool, public library, or licensed day care facility.

~~6-11-4.—Application of this Ordinance.~~

A.—~~Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.~~

B.—~~No Sexually Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of St. Francis, the laws of the State of Minnesota, or the United States of America. Nothing in this ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.~~

~~6-11-5.—Non-conforming uses.~~

~~Sexually Oriented uses which do not conform to the requirements, restrictions and prohibitions of this Ordinance shall be classified as legal non-conforming uses and may continue in operation until December 31, 1993. After December 31, 1993, all non-conforming uses shall be terminated and become illegal unless brought into conformance with this Ordinance. The City shall attempt to identify all such uses which become classified as non-conforming under the provisions of this Subdivision and shall notify the property owners and operators of such uses in writing of the change in status of such property under this Ordinance. The owner of any property on which a Sexually Oriented is located may apply to the City for an extension of the termination date. The applicant shall have the burden of proving hardship based upon the established termination date. In making its decision, the City may consider any factor relevant to the issue, including but not limited to:~~

- ~~A.—The degree of magnitude of threat to the public health, safety and general welfare posed by the secondary impacts of the non-conforming operation.~~
- ~~B.—The length of time that the Sexually Oriented business has been operating.~~
- ~~C.—The ease by which the property could be converted to a conforming use.~~
- ~~D.—The nature and condition of the improvements on the property.~~
- ~~E.—The value and condition of the improvements on the property.~~
- ~~F.—The amount of the applicant's investment in the business.~~
- ~~G.—The amount of the investment already realized.~~
- ~~H.—The cost of relocating the Sexually Oriented Use.~~

~~6-11-6.—Location.~~

~~During the term of this Ordinance, not Adult Entertainment Use shall be located less than five hundred (500) feet from any residential zoning district boundary site used for residential purposes and less than one thousand (1,000) feet from any church site, from any school site, or from any youth facility. In addition, no adult entertainment use may be located within one thousand (1,000) feet of another adult entertainment use. For purposes of this Ordinance this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, youth facility site, or another adult entertainment use site to the nearest point of the structure housing the proposed adult entertainment use.~~

~~6-11-7.—Permitted zoning districts.~~

~~Adult Entertainment Uses will be allowed in the Light Industrial District and the General Commercial District after issuance of a Conditional Use Permit. Adult Entertainment Uses will need to comply with all Conditional Use Permit Standards and Site Plan Requirements prior to operation.~~

~~6-11-8.—Hours of operation.~~

~~Adult Entertainment Uses shall be limited to 8:00 AM to 12:00 PM for its hours of operation. A differing time schedule may be approved by the City, if it can be satisfactorily demonstrated by the operator to the City that extended operational hours:~~

- ~~A.—Will not adversely impact or affect uses or activities within one thousand (1,000) feet.~~
- ~~B.—Will not result in increased policing and related service calls.~~
- ~~C.—Are critical to the operation of the business.~~

~~6-11-9.—Operations.~~

~~The operation of an Adult Entertainment Use shall comply with the following operational standards:~~

- A. ~~An establishment operating as an Adult Entertainment Use shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of M.S. Chapter 617 or other applicable Federal or State Statutes or local Ordinances.~~
- B. ~~All entrances to the business, with the exception of emergency, fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way.~~
- C. ~~The layout of the display area shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing, including, but not limited to: books, magazines, photographs, video tapes, or any other material.~~
- D. ~~Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.~~

~~6-11-10.—Signs.~~

~~Signs for Adult Entertainment Uses shall comply with the City's Sign Ordinance, and in addition signs for Adult Entertainment Uses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.~~

~~6-11-11.—Adult entertainment uses—Accessory.~~

~~Adult Entertainment Uses—Accessory shall comply with the following regulations:~~

- A. ~~Comprise no more than ten (10) percent of the floor area of the establishment in which it is located.~~
- B. ~~Comprise no more than twenty (20) percent of the gross receipts of the entire business operation.~~
- C. ~~Does not involve or include any activity except the sale or rental of merchandise.~~
- D. ~~Shall restrict from and prohibit access to minors by the physical separation of such items from areas of general public access:~~
 - 1. ~~*Movie Rental.* Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation of the business.~~
 - 2. ~~*Magazines.* Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.~~
 - 3. ~~*Other Uses.* Adult Uses—accessory not specifically cited shall comply with the intent of this Section, subject to the approval of the City Council.~~
- E. ~~Adult Uses—accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.~~
- F. ~~Adult Uses—accessory shall be exempt from the Licensing and Conditional Use Permit requirements.~~

~~6-11-12. - Licenses.~~

~~All establishments, including any business operating at the time of this Ordinance becomes effective, operating or intending to operate an Adult Entertainment Use, shall apply for and obtain a license with the City of St. Francis.~~

~~A. License Required.~~

- 1. ~~A person is in violation of City Code if he/she operates an Adult Entertainment Use without a valid license, issued by the City.~~

2. An application for a license must be made on a form provided by the City. The application must be accompanied by a Site Plan that ~~is in compliance with~~ follows the City Code Requirements. The Site Plan shall show the configuration of the premises, including a statement of total floor space occupies by the business.
3. The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to ~~be in compliance with~~ be following all City Regulations.
4. Applications for license shall be made only on the forms provided by the City. Four (4) complete copies of the application shall be furnished to the office of the City Clerk containing the address and legal description of the property to be used; the names, addresses, phone numbers of the owner, lessee (if any), and the operator or manager; the name address, and phone number of two persons who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's manager's or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of such crime or offense including the disposition thereof; the name and addresses of all creditors of the applicant, owner, lessee, or manager in so far as and regarding credit which has been extended for the purposes of constructing, equipping, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.

If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names and addresses of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

5. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having interest in the premise upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.

B. Issuance of License.

1. The Police Chief shall recommend approval of the issuance of a license by the City to an applicant within forty-five (45) days after receipt of an application unless he/she finds one or more of the following to be true:
 - a. An applicant is under eighteen (18) years of age.
 - b. An applicant or an applicant's spouse is overdue in his/her payment to the City, County, or State of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an Adult Entertainment Use.
 - c. An applicant has failed to provide information ~~reasonable~~ reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - d. An applicant or an applicant's spouse has been convicted of a violation of a provision of this Chapter, other than the offense of operating an Adult Entertainment Use without

a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

- e. An applicant is residing with a person who has been denied a license by the City to operate an Adult Entertainment Use within the preceding twelve (12) months, or residing with a person whose license to operate an Adult Entertainment Use has been revoked within the preceding twelve (12) months.
- f. The premises to be used the Adult Entertainment Use has not been approved by all City Departments as ~~being in compliance with~~following applicable laws and ordinances; such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.
- g. The license fee required by this Chapter has not been paid.
- h. An applicant has been employed in an Adult Entertainment Use in a managerial capacity within the preceding twelve (12) months and had demonstrated that he/she is unable to operate or manage an Adult Entertainment Use premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- i. An applicant or applicant's spouse has been convicted of a crime involving any of the following offenses: Any sex crimes as defined by Minnesota State Statute 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith;

Any obscenity crime is defined by Minnesota Statute 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

- 2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
- 3. An applicant who has been convicted or whose spouse has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code may qualify for an Adult Entertainment Use license only when the time period required by Section 6-11-12.B.1.i of this Code has elapsed.
- 4. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Entertainment Use. The license shall be posted in a conspicuous place at or near the entrance to the Adult Entertainment Use so that it may be easily read at any time.
- 5. The City Council shall act to approve or disapprove the license application within one hundred twenty (120) days from the date the application was submitted, provided that the application contains all of the information required by this ordinance. If the application is deficient, the Council shall act on the application within one hundred twenty (120) days from the date that the deficiency has been corrected.

6. Within ninety (90) days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the City.
- C. *Fees.* An initial investigation fee ~~of \$400.00~~ shall be charged at the time the application is filed; no part of this fee shall be refundable. If after review of the application the license is approved, ~~the license holder shall pay \$400.00 for the initial license and \$4,000.00 per annum each time the license is renewed.~~license and annual fees shall be paid in accordance to the City Fee Schedule.
- D. *Inspection.*
1. An applicant or license shall permit representatives of the police department, Planning Department, Fire Department, and Building Inspection Department, to inspect the premises of an Adult Entertainment Use for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
 2. A person who operates an Adult Entertainment Use or his/her agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.
 3. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.
- E. *Expiration of License.*
1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6-11-12.A of this Code. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected.
 2. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.
- F. *Suspension.*
1. The City may suspend a license for a period not to exceed ninety (90) days if it determines that a licensee or an employee of a license has:
 - a. Violated or is not in compliance with any provision of this Chapter.
 - b. Engaged in excessive use of alcoholic beverages while on the Adult Entertainment Use premises.
 - c. Refused to allow an inspection of the Adult Entertainment Use premises as authorized by this Chapter.
 - d. Knowingly permitted any type of gambling by any person on the Adult Entertainment Use premises.
 - e. Demonstrated inability to operate or manage an Adult Entertainment Use in a peaceful or law-abiding manner, thus necessitating action by law enforcement officers.
 2. A suspension by the City shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the persons in charge thereof.
- G. *Revocation.*
1. The City may revoke a license if a cause of suspension in Section 6-11-12.F of this Code occurs and the license has been suspended within the preceding twelve (12) months.
 2. The City shall revoke a license if it determines that:

- a. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
 - c. A licensee or employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the Adult Entertainment Use during a period of time when the licensee's license was suspended.
 - e. A licensee has been convicted of an offense listed in Section 6-11-12.B.1.i of this Code of which the time period required in Section 6-11-12.B.1.i of this Code has not elapsed.
 - f. On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 6-11-12.B.1.i of this Code for which a conviction has been obtained, and the person or persons were employees of the Adult Entertainment Use at the time the offenses were committed.
 - g. A licensee or an employee has knowingly allowed an act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
 - h. A licensee is delinquent in payment to the County or State for hotel occupancy taxes, ad valorem taxes, or sales taxes related to the Adult Entertainment Use.
- 3. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
 - 4. Section 6-11-2.G.2.g of this Code does not apply to adult motels as a grounds for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view.
 - 5. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Entertainment Use license for one year from the date of revocation became effective. If subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Section 6-11-12.G.2.e of this Code an applicant may not be granted another license until the appropriate number of years required under Section 6-11-12.B.1.i of this Code has elapsed.
 - 6. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.
- H. *Transfer of License.* A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Entertainment Use under the authority of a license at any place other than the address designated in the application.

6-11-13. - Separation.

Every section, provision, or part of this section or any permit issued pursuant to this ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

6-11-14. - Effective date.

This Ordinance becomes effective thirty (30) days after its passage and publication pursuant to City Charter.



City Council
AGENDA REPORT
Agenda Item #
9K

TO: Joe Kohlmann, City Administrator
FROM: Kate Thunstrom, Community Development Director
SUBJECT: Anderson Companies Agreement Extension
DATE: May 3, 2021

OVERVIEW

In November the City entered into an Agreement with Anderson Companies for a project potential at the 3518 Bridge Street property. The initial concept was for a senior living building. Since that time the senior concept has been determined that it will not be moving forward. However, Mr. Anderson would like to continue to work with the City on concepts that may develop that site. Staff has met with Mr. Anderson on some initial ideas and have future meetings set up to continue these conversations.

At this time, Mr. Anderson is requesting that the City extend the Agreement for the 90 days identified in the Agreement and allow time for staff to continue to work with him to determine if there is a long-term use to benefit the City and Anderson Companies.

ITEMS TO BE DISCUSSED:

Staff requests Council to approve a 90-day extension to the Agreement with Anderson Companies for the 3518 Bridge Street location.

ATTACHMENTS:

- Letter from Anderson Companies requesting extension
- Original Agreement



April 20, 2021

Mr. Joe Kohlmann
City Administrator
23340 Cree Street NW
St. Francis, MN 55070

RE: Agreement Extension Request
Property Defined Per Exhibit A

Dear Mr. Kohlmann:

Please accept this correspondence as our written request to extend the existing Agreement dated November 16, 2020 (see attached) by and between the City of St Francis and Anderson Companies related to the Property defined by said Agreement's Exhibit A. This extension is being requested per Article E.iii within the Agreement and the requested extension is hereby ninety (90) days.

Anderson Companies is also requesting the option to extend the Agreement an additional ninety (90) days beyond the request above. If acceptable, please advise as to how the Agreement should be modified via Addendum as you feel appropriate and we will create the associated document.

Thank you for your consideration.

Sincerely,

Greg Anderson
President/CEO

Cc: Kate Thunstrom – Community Development Director
Steven D. Feldman – St Francis Mayor

Enclosure: St. Francis Agreement

AGREEMENT

THIS AGREEMENT, dated as of this 16th day of November, 2020 (the "Effective Date") is entered into by and between the City of St Francis, Minnesota, a body corporate and politic and a political subdivision of the State of Minnesota (the "City"), and Anderson Companies, LLC, a Minnesota limited liability company (the "Tentative Developer").

WITNESSETH:

WHEREAS, the City currently owns certain property, which property is more particularly described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the City desires to promote redevelopment of the Property, which is located within the City; and

WHEREAS, Tentative Developer is interested in evaluating the potential acquisition of the Property and development of the Property for use as a senior housing facility or other use (the "Project"); and

WHEREAS, if undertaken and completed, the Project would help meet the City's goal of increasing the tax base and providing increased employment opportunities in the City.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and obligations set forth herein, the parties agree as follows:

- A. Obligations of Tentative Developer. The Tentative Developer will, at its own cost, undertake the following:
 - 1. Evaluate potential uses of the Property and potential site plans for the Project;
 - 2. Have a preliminary meeting with appropriate City staff to discuss the Project, including determining what, if any, zoning approval and variances would be needed if the Project were to proceed.
 - 3. If Tentative Developer desires to proceed with the Project, it will negotiate in good faith with the City in an attempt to reach agreement on the terms and conditions of a purchase and sale agreement for the Property and a development agreement for the Project.
- B. Costs and Expenses. Except as set forth in Section E(ii) of this Agreement, each party is responsible for paying its own costs and expenses associated with this Agreement.
- C. Obligations of the City.

(1) The City agrees it will not negotiate or contract with another party concerning the development of the Property or the sale of the Property during the Term (as hereinafter defined), as the same may be extended, unless this Agreement is earlier terminated in accordance with its provisions.

(ii) If the City desires to proceed with the Project, it will negotiate in good faith with the Tentative Developer in an attempt to reach agreement on the terms and conditions of a purchase and sale agreement for the Property and a development agreement for the Project.

D. **Transfer or Assignment.** The Developer shall not assign or transfer its rights under this Agreement in full or in part without the prior written consent of the City, which the City may grant or withhold in its sole and absolute discretion.

E. **Default and Termination of Agreement.**

(i) If Tentative Developer defaults in the performance of one or more of its obligations under this Agreement and fails to cure the same within thirty (30) days after written notice by the City ("**Tentative Developer Default**"), the City may terminate this Agreement, as its sole and exclusive remedy for a Tentative Developer Default.

(ii) If the City fails to perform its obligations under this Agreement and fails to cure the same within thirty (30) days after written notice by Tentative Developer ("**City Default**"), the Tentative Developer may terminate this Agreement. The Tentative Developer may sue the City for damages in connection with a City Default, but such damages are limited to Tentative Developer's actual out-of-pocket costs and expenses, including attorneys' fees, that Tentative Developer has incurred in connection with the proposed Project.

(iii) Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall automatically terminate 180 calendar days after the Effective Date (the "**Term**"); provided, however, that Tentative Developer may extend the Term for an additional ninety (90) days by written notice to the City prior to expiration of the original Term.

F. **Notices.** Notice or demand or other communication between or among the parties shall be sufficiently given if sent by mail, postage prepaid, return receipt requested or delivered personally as follows:

As to the City:

City of St Francis, Minnesota
Attn: City Administrator
23340 Cree Street NW
St Francis, MN 55070

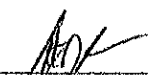
As to the Tentative Developer:

Anderson Companies, LLC
Attn: Greg Anderson
3340 Republic Avenue, Suite 50
St. Louis Park, MN 55426

G. **No Final Agreement.** This Agreement does not constitute a development agreement or a purchase and sale agreement. The City's obligations under this Agreement are limited to those specifically set forth in Section C of this Agreement and no other implied obligations.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed as of the Effective Date.

CITY OF ST FRANCIS, MN

BY: _____

Steven D. Feldman

Its: Mayor

BY: _____

Joe Kohlmann

Its: City Administrator

IN WITNESS WHEREOF, the Tentative Developer has caused this Agreement to be duly executed as of the Effective Date.

ANDERSON COMPANIES, LLC

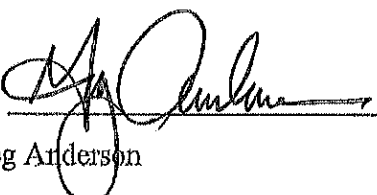
By: 
Greg Anderson
Its: President/CEO

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION

Lot 1, Block 8, VILLAGE OF ST. FRANCIS AUDITOR PLAT, according to the recorded plat thereof, Anoka County, Minnesota.

and

That part of Lot 5, Block 7, VILLAGE OF ST. FRANCIS AUDITOR PLAT, according to the recorded plat thereof, lying westerly of the northerly extension of the westerly right of way of Quay Street, as delineated and dedicated on WALTERS ADDITION, according to the recorded plat thereof, Anoka County, Minnesota.

and

(PER CERTIFICATE OF TITLE NO. 94809)

The part of the Southwest Quarter of the Southeast Quarter, Section 32, Township 34, Range 24, Anoka County, Minnesota, described as follows:

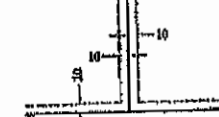
Commencing at the southeast corner of said Southwest Quarter of the Southeast Quarter; thence on an assumed bearing of North 00 degrees 15 minutes 14 seconds West, along the east line of said Southwest Quarter of the Southeast Quarter, a distance of 360.57 feet; thence South 89 degrees 52 minutes 05 seconds West, a distance of 175.99 feet to a point hereinafter referred to as Point "A"; thence North 00 degrees 22 minutes 12 seconds West, a distance of 289.41 feet; thence South 89 degrees 42 minutes 41 seconds West, a distance of 165.00 feet; thence North 00 degrees 22 minutes 12 seconds West, a distance of 132.00 feet; thence south 89 degrees 42 minutes 41 seconds West, a distance of 85.82 feet; thence South 00 degrees 24 minutes 08 seconds East, a distance of 170.00 feet; thence South 89 degrees 42 minutes 41 seconds West, a distance of 210.00 feet; thence South 00 degrees 24 minutes 08 seconds East, a distance of 94.00 feet to the point of beginning of the land to be described; thence South 89 degrees 42 minutes 41 seconds West, a distance of 165.00 feet; thence South 00 degrees 24 minutes 08 seconds East, a distance of 155.70 feet to the intersection with a line bearing South 89 degrees 52 minutes 05 seconds West from said Point "A"; thence South 89 degrees 52 minutes 05 seconds West, a distance of 100.00 feet; thence North 00 degrees 24 minutes 08 seconds West, a distance of 419.43 feet; thence North 89 degrees 42 minutes 41 seconds East, a distance of 265.00 feet to the intersection with a line drawn on a bearing of North 00 degrees 24 minutes 08 seconds from the point of beginning; thence South 00 degrees 24 minutes 08 seconds East, a distance of 264.00 feet to the point of beginning.

(Said tract is also known as Lots 2, and 3, and a part of Lot 4, Block 8, "Village of St. Francis".)

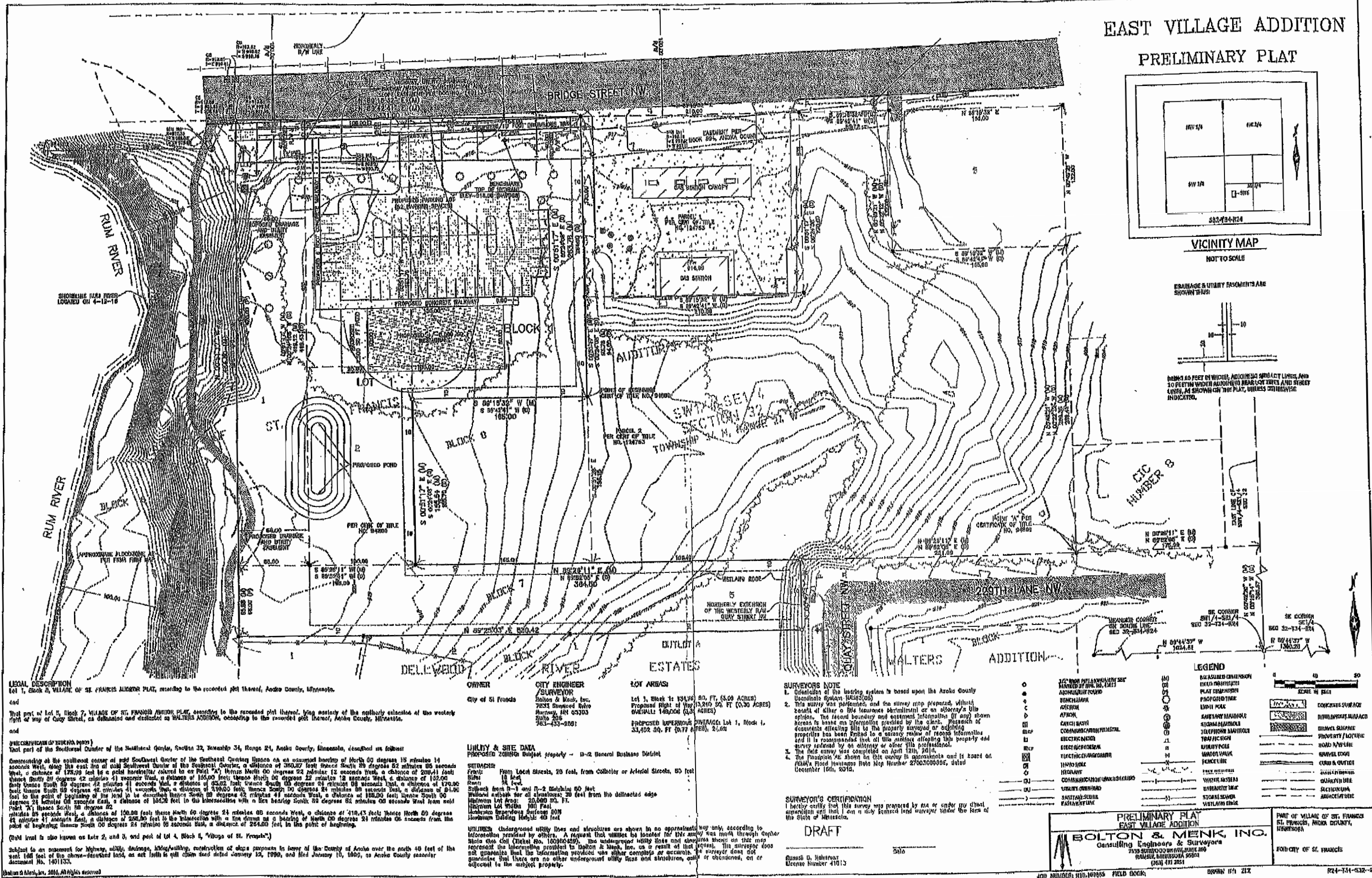
Subject to an easement for highway, utility, drainage, biking/hiking, construction of slope purposes in favor of the County of Anoka over the north 40 feet of the west 165 feet of the above-described land, as set forth in quit claim deed dated January 12, 1999, and filed January 19, 1999, as Anoka County recorder document No. 1401133.

332734-124

DRAINAGE & UTILITY BASEMENTS ARE
 SHOWN THUS:



DECK 10 FEET IN WIDTH, ADJOINING SUBJECT LINES, AND
10 FEET IN WIDTH ADJOINING NEARLY LINES AND STREET
LINES, AS SHOWN ON THE PLAT, UNLESS OTHERWISE
INDICATED.



FASTENTURE PRELIMINARY PLAT EAST VILLAGE ADDITION BOLTON & MENK, INC. Consulting Engineers & Surveyors 7539 Springdale Avenue, Suite 200 Riverside, California 92504 (714) 471-2051 JOHN HENDERSON, JR. 107855 FIELD BOOKS	WILKIN ENGINE PART OF VILLAGE OF ST. FRANCIS ST. FRANCIS, INDIAN COUNTY, MISSOURI FORD CITY OF ST. FRANCIS BROWN 181 21X	R24-734-532-0
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